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Digging for Transparency

How U.S. companies are only scratching the surface of conflict minerals reporting

APRIL 2015

Foreword

By Dr. Denis Mukwege

Democratic Republic of Congo's minerals are exported, smelted, and sold internationally, where they end up in cell phones, laptops, or as pieces of jewelry. We know that some of these minerals sourced from conflict areas have funded violence, abuses, and corrupt criminal networks. And yet, the response of international companies and states has been too slow and timid to make the necessary fundamental changes.

Members of Congress in the United States showed great courage in 2010, when they passed Section 1502 of the Dodd-Frank Wall Street Reform and Consumer Protection Act. This landmark legislation requires companies listed on U.S. stock exchanges to check whether their mineral purchases are funding warring parties in Congo and report on the findings.

But that is not without its controversy. Some corporations have stepped up and shown leadership - by identifying and visiting the mines and smelters where their minerals are extracted and processed. But others have turned their back on the problem. They have shamefully tried to use the courts to throw out the law while hiding behind powerful industry associations like the National Association of Manufacturers and the U.S. Chamber of Commerce.

Despite these attacks, a great step was taken towards cleaning up the dirty minerals trade last year: U.S. companies, like Apple, Intel and Google filed their first ever conflict minerals reports under the law.

But, shockingly, according to a new analysis by human rights groups Global Witness and Amnesty International, almost 80 percent of companies who filed these inaugural reports failed to do the minimum required by the law. Most of America's biggest corporations have blind spots in their supply chains – leaving them oblivious to whether the products they sell contain minerals that have funded conflict.

"Most of America's biggest corporations have blind spots in their supply chains – leaving them oblivious to whether the products they sell contain minerals that have funded conflict."

The numbers are staggering: around 85 percent of companies had not contacted the smelters or refiners that processed their minerals; only 16 percent of companies said they knew which country their minerals came from. Most have failed to check their supply chains themselves for risks of abuses or conflict financing.

Companies must do more to find out how the minerals they are buying have been produced and traded. They must evaluate the risks that these minerals have funded violence and address problems when they find them. In June, when companies file their second conflict minerals reports, they must show that they have put this right.

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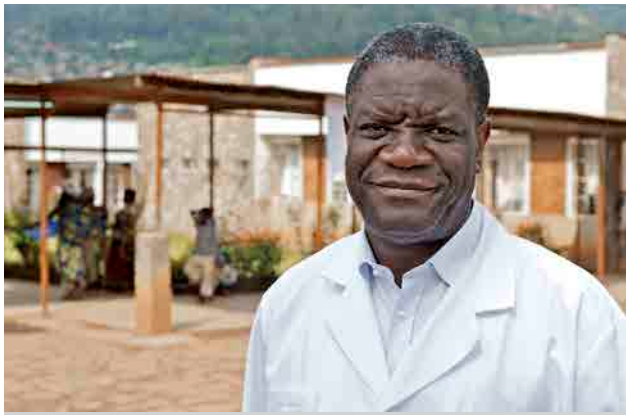

Dr. Denis Mukwege at Panzi Hospital in Bukavu, South Kivu. CREDIT: Torleif Svensson

Cover picture: Miners stand on a muddy cliff at a gold mine near Bunia, Orientale Province. CREDIT: Lionel Healing: Getty Images

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Executive Summary

Workers mine cassiterite in Numbi , South Kivu. CREDIT: Kuni Takahashi: Getty Images

More than one thousand companies listed on U.S. stock exchanges filed their first Conflict Minerals Reports with the U.S. Securities and Exchange Commission (SEC) in 2014. This was a landmark moment. These inaugural reports are one outcome of wider efforts to ensure America's biggest businesses take responsibility for the conditions under which the raw materials they use are produced and traded. They document corporations' efforts to check their supply chains in an attempt to break the links between the mineral trade and armed groups in the Democratic Republic of Congo (Congo).

The reports are a requirement of a pioneering piece of legislation: Section 1502 of the 2010 Dodd-Frank Wall Street Reform and Consumer Protection Act, better known as the Dodd-Frank Act. The law requires, among other things, U.S.-listed companies to undertake due diligence to check if certain minerals in their products – tin, tungsten, tantalum and gold – are funding armed groups or fueling human rights abuses in Congo and its neighboring countries. These companies, which include well-known brands such as Apple, Boeing and Tiffany & Co, then have to publicly disclose their due diligence efforts to the SEC in annual reports.[1] These reports allow companies to demonstrate that they are sourcing the minerals in their products responsibly and not indirectly profiting from the harm that armed groups inflict on civilians in Congo.

Together with other efforts, Section 1502 has helped create an unprecedented opportunity to reform eastern Congo's mineral trade. It is changing the way that supply chains are understood and, ultimately, how they function. Section 1502 has also helped spark similar legal reform and standard setting efforts in African countries, including Congo itself, Europe and China.

Consumers and investors are increasingly demanding more information about what goes on behind companies' logos. It is now common for them to ask questions about where the minerals in their products came from and the conditions under which they were extracted. More and more, companies are expected to have looked carefully into the answers.[2]

Global Witness and Amnesty International analyzed one hundred reports filed by companies with the SEC under Section 1502 of the Dodd-Frank Act. In doing so we identified what, in our assessment, are the minimum requirements of the law (see below) and evaluated whether these companies had met those requirements. This is the first analysis of its kind. The findings show that some companies are making real progress towards sourcing conflict free minerals. The Conflict Minerals Reports help shine a light on the process by which minerals get from the mine to the store. This is positive; we know that due diligence, as required by Section 1502, can be done. In just the first year of reporting alone, around twenty percent of surveyed companies met the minimum requirements of the law.

However, our findings also show that almost eighty percent of companies in the sample, many of which are household names, failed, in our assessment, to meet the minimum requirements of the law. We drew these requirements from the SEC's final rule for Section 1502 of the Dodd-Frank Act and guidelines on responsible supply chains from the Organization for Economic Cooperation and Development (OECD), conformity to which is a legal requirement for the Conflict Minerals Reports analyzed (discussed further in the 'Methodology' section).[3]

Failure to do supply chain checks hampers attempts to clean up the conflict minerals trade. Very few of the reports contained detailed information about the steps companies had taken to source minerals responsibly. This suggests that many of these companies made little effort to understand their supply chains and to take steps to ensure that they are not contributing to harm.

Key findings from our analysis

- **Seventy-nine percent of the company reports we analyzed did not meet the minimum requirements of the U.S. conflict minerals legislation.[4] The remaining twenty-one percent of companies did so in their first year of reporting, showing that it can be done.**
- **Only fifteen percent of companies reported that they had contacted, or attempted to contact the facilities that process the minerals in their products (smelters or refiners). Most companies limited their due diligence efforts to their direct suppliers.**
- **Forty-one percent of companies failed to show that they had a policy to identify risks in their supply chain. Fewer than half of companies said that they report risk to senior management.**
- **No companies in our sample disclosed an example of a risk in their supply chain. This is despite some companies disclosing to the SEC that gold from North Korea may have entered their supply chain, which is a possible violation of U.S. law. Many others stated that they could not rule out the minerals they were sourcing were benefitting armed groups.**

Most companies acknowledged that their reporting could be improved and provided some information on plans to do so. As our analysis shows, more detailed disclosures are badly needed in subsequent reporting years. We provide recommendations to improve future Conflict Minerals Reports throughout this analysis and in the final section.

Companies covered by the law should demonstrate that they have fully adhered to the OECD due diligence guidance for responsible mineral supply chains which was developed with substantial input from companies.[5]

Risk-based due diligence under the OECD guidance is "proactive and reactive," flexible in its approach, and based on a process of on-going improvement over time.[6]

Although companies remain individually responsible for their supply chain checks, industry schemes can help companies comply with the law. As part of wider efforts, companies' Conflict Minerals Reports can help to break the links between the minerals trade, armed groups and violence.

Methodology

Global Witness and Amnesty International selected one hundred U.S.-listed companies that filed Conflict Minerals Reports with the SEC by the June 2, 2014 deadline.[7] We selected the top five companies by market capitalization across the ten most relevant industry sectors to generate an initial list of fifty companies.[8] This list was supplemented with an additional fifty companies selected using a computer-based randomizing program. The sample includes small, medium and large companies from a variety of industry sectors and geographical locations (see Annex 1 for a list).

We then used a list of twelve criteria applicable to companies required to submit Conflict Minerals Reports. We drew these criteria from the SEC's final rule for Section 1502 of the Dodd-Frank Act and the five-step framework of the *OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas* (referred to in this report as the OECD guidance) to assess the quality of each company's due diligence efforts and public reporting.

Specifically, criteria one to seven are drawn from the SEC rule and eight to twelve from the OECD guidance. The OECD guidance is a legal requirement for companies that file Conflict Minerals Reports under the SEC rule because the rule says that those companies must do due diligence on their supply chain that conforms to a "nationally or internationally recognized due diligence framework."[9] At the time the inaugural reports were filed, and at present, the only such recognized framework is the OECD guidance.[10]

Here is a list of the twelve criteria used in our analysis of Conflict Minerals Reports.
The company must:

1. **determine whether its products fall under the scope of the law (i.e. whether any of the four minerals covered by Section 1502 are necessary to the functionality or production of a product manufactured, or contracted to be manufactured, by the company);**
2. **complete a reasonably designed, good-faith country of origin inquiry and describe this in its filing to the SEC;**
3. **submit a Conflict Minerals Report;**
4. **make the Conflict Minerals Report publicly available on the company's own website and provide a link to the website;**
5. **carry out and describe due diligence measures taken on the source and chain of custody of the four minerals, including metal processors as well as direct suppliers;**
6. **describe the facilities - metal processors – used to process the four minerals (in products that are not DRC conflict free), if known;**
7. **describe information about the country of origin of the four minerals used in its products (in products that are not DRC conflict free), if known;**
8. **demonstrate that they have adopted and committed to a conflict minerals policy;**
9. **create an internal management system, usually a conflict minerals team, and describe this in its report;**
10. **develop a risk identification and assessment process and describe its efforts to identify risk in its supply chain in its report;**
11. **develop a strategy to respond to identified risks and describe this in its report; and**
12. **engage with metal processors in its supply chain, directly or through a recognized industry scheme, and describe this in its report.[11]**

Where this report makes judgments on whether company Conflict Minerals Reports have met the minimum requirements of the U.S. Conflict Minerals legislation, this assessment is based on our view as expert organizations - which have carried out research into supply chains, conflict and human rights abuses over several years and helped create the OECD guidance along with industry - following detailed analysis of these reports against the criteria listed above. The analysis in this report is based on the selected companies' Conflict Minerals Reports submitted to the SEC and not material published elsewhere.

This is not an exhaustive list of requirements, and in this report we also look at how well companies did at meeting the five steps of the OECD guidance. Awareness by companies of the need to follow OECD guidance was extremely high, with ninety-six percent of the companies we analyzed stating that their reports conformed to the standard. Companies should follow the SEC rule and OECD guidance in full to be in compliance with Section 1502 of the Dodd-Frank Act.

Mining in Mwenga territory, South Kivu. CREDIT: Global Witness

Key terms and definitions

Chain of custody – refers to the documentation of sales and purchases of minerals as they are bought and sold to various actors along the supply chain, from mine to end-user companies

Conflict Free Sourcing Initiative (CFSI) – an industry scheme that facilitates audits of smelters and refiners by examining their conflict free sourcing policies and certifying conflict free smelters.

Democratic Republic of Congo – referred to as Congo in this report. Located in Central Africa, Congo is one of the world's least developed countries despite its huge wealth of natural resources.

Downstream – as the supply chain flows from the mine to the consumer, refers to the section of the supply chain between the smelter or refiner and the end-user companies, which may be a consumer electronics company, for example.

DRC Conflict Free – defined in the U.S. conflict minerals provision, Section 1502 of the Dodd-Frank Act, as products that do not contain minerals that directly or indirectly finance or benefit armed groups in Democratic Republic of the Congo or an adjoining country.

Due diligence – a proactive and reactive business practice in which companies identify, assess, mitigate, manage and report on the actual and potential adverse impacts of their business operations, especially their supply chains.

OECD guidance – the internationally-accepted standard for risk-based supply chain due diligence, which was drafted with significant input from companies. It establishes a detailed five-step framework to guide companies. Companies that have filed Conflict Minerals Reports under Section 1502 of the Dodd-Frank Act are required to follow OECD guidance under the SEC final rule.

Organization for Economic Cooperation and Development (OECD) – an international organization, comprised of thirty-four countries that describe themselves as being committed to democracy and the market economy. It seeks to develop and promote public policy that fosters economic growth and social change. The U.S. is a founder member of the OECD.

Reasonable Country of Origin Inquiry (RCOI) – a process required by Section 1502 of the Dodd-Frank Act to determine whether minerals contained in a company's products originated in Congo or one of the covered countries or are from recycled or scrap sources.

SEC final rule - guidance issued by the Securities and Exchange Commission implementing the statutory requirement for Section 1502. It was issued in 2012 following a public comment period in which industry groups, investors, consumers, NGOs and other interested parties had an opportunity to comment.

Section 1502 of the Dodd-Frank Act – the provision of the 2010 Wall Street Reform and Consumer Protection Act, commonly referred to as the "Dodd-Frank Act," which includes the requirement for U.S.-listed companies to conduct supply chain due diligence on the minerals tin, tantalum, tungsten and gold.

Smelters or refiners – also known as metal processors. They 'smelt' or 'refine' mineral ores, like coltan or wolframite, into more pure metals, like tantalum or tungsten respectively, to be used in manufacturing products.

Specialized Disclosure Form, or Form SD – the form companies use to disclose their due diligence efforts to the SEC.

Supply chain risk – the actual or potential impacts of business operations and relationships, including human rights abuses, bribes, illegal taxation and other forms of corruption, which can occur along supply chains from extraction to end-user companies.

Upstream – as the supply chain flows from the mine to the consumer, 'upstream' refers to the part of the supply chain that begins with extraction and ends with smelting or refining.

Introduction

Coltan mine, near Rubaya, North Kivu. CREDIT: MONUSCO/Sylvain Liechti

Section 1502 of the Dodd-Frank Act was passed by the U.S. Congress in response to the protracted and violent conflict in eastern Congo, many of whose participants are partially financed by the exploitation of and trade in conflict minerals.[12] The drivers of conflict in Congo are complex and minerals are not the root cause, but for over fifteen years armed groups and members of the Congolese national army have preyed on the mining sector and its associated trade, including in the minerals tin, tungsten, tantalum and gold, to finance themselves and their operations. The fighting involved nine African countries and claimed millions of lives.[13] The link between Congo's resources, in particular the lucrative trade in minerals and armed groups operating in eastern Congo has been extensively documented by the United Nations, researchers and non-governmental organizations both in Congo and abroad.[14]

Despite the collapse in late 2013 of the most well-organized rebel movement in eastern Congo (a Rwandan-backed group known as M23), the violence continues today. Dozens of armed groups, homegrown and foreign, operate in the area. The lives of miners and their families are negatively affected when the military or rebel groups infiltrate their communities. Mining becomes less secure and incomes often decline.[15] The conflict and associated human rights abuses perpetrated by these groups also have a devastating impact on the wider community.[16]

Eastern Congo's tin, tantalum, tungsten and gold – some of which has financed conflict, while some is 'conflict free' – is traded internationally. These minerals are necessary in the production of a vast array of consumer products including mobile phones, airplanes, medical equipment, jewelry, and apparel. But, before the passage of Section 1502, most companies did little, if anything, to ensure they were sourcing these minerals responsibly. Those companies that did act before the law came into effect did so mainly due to pressure from their customers.[17] Without a law in place requiring them to check their supply chain, the majority of companies – and by consequence their customers and investors – were unaware whether their use of minerals was contributing to conflict and human rights abuses overseas.

Congress adopted Section 1502 in order to "bring greater public awareness of the source of issuers' conflict minerals and to promote the exercise of due diligence on conflict mineral supply chains" to help "end the human rights abuses in the DRC [Congo] caused by the conflict."[18] According to former Senator Russ Feingold, co-sponsor of the legislation and former U.S. special envoy to the Great Lakes, the law seeks to "ensure that there is greater transparency around how international companies are addressing issues of foreign corruption and violent conflict that relate to their business."[19]

After the passage of the law, the provision was handed over to the SEC, whose mission is to "protect investors [and] maintain fair, orderly, and efficient markets," for the rulemaking.[20] During the process, over 39,000 consumers submitted comments urging the SEC to issue a strong final rule.[21] Investors also weighed in on the rule: one letter to the SEC from forty-nine investors said that "conflict minerals disclosures are material to investors and will inform and improve an investor's ability to assess social (i.e., human rights) and reputational risks in an issuer's supply chain."[22] Another letter from investors with $230 billion of total assets under management said that disclosure would "protect investors" and the "value of our investments."[23]

Section 1502 is the leading piece of legislation in what is becoming a global movement to make mineral supply chains more transparent and responsible. The legislation has spurred some industry groups within metals and minerals sectors – which have traditionally lagged behind other industries, like apparel and food[24] – to begin their own process of supply chain scrutiny, often through the development of industry schemes or programs.

But, while there has been support from some investors and companies, other companies have taken legal action to challenge the provisions of the law in the U.S. courts. These companies, acting through industry groups, argued that the law was too burdensome and costly.

In April 2014, following almost two years of litigation, the U.S. Court of Appeals in the D.C. Circuit largely rejected the industry groups' legal challenges to the SEC rule.[25] However, the court did rule that companies were not required to identify their products as having "not been found to be DRC conflict free."[26] The court is currently reconsidering that portion of its decision. Regardless of the court's decision, these issues have no bearing on the companies' obligation to disclose, for products that fall within the scope of the law, the facilities used to process the four minerals (if known), the country of origin of the minerals (if known) and the efforts to determine the mine or location of origin.[27]

In addition to the requirements for companies, the law also calls on the U.S. Department of State and U.S. Agency for International Development to present a strategy to Congress to break the links between human rights abuses, armed groups, and conflict minerals, which should promote "local and regional development" and "peace and security" in Congo. The two organizations presented this strategy in 2011. In addition, the U.S. Government Accountability Office must produce annual progress reports on violence in Congo, which the agency has also done since 2010.[28] Furthermore, Section 1502 says that the U.S. Department of Commerce should produce an annual assessment on the accuracy of companies' due diligence and any independent audits undertaken. The Commerce Department was asked by Congress to produce the assessment by January 2013 but its publication was delayed as the first Conflict Minerals Reports were not filed until June 2014. It still has not been produced and Commerce Department officials have not given a reason for the further delay.[29] The assessment could provide valuable guidance for companies about best practices and set a benchmark for the SEC to assess the Conflict Minerals Reports.

Our analysis, *Digging for Transparency*, is in three sections. Section one examines the requirements of the U.S. conflict minerals law. Section two presents the results of our analysis of the first set of Conflict Minerals Reports to be filed with the SEC and is arranged according to the five steps of the OECD guidance, the international standard for supply chain due diligence. Section three focuses on how to improve future Conflict Minerals Reports and why cleaning up companies' supply chains is important.

U.S. President Obama signs Dodd Frank Wall Street Reform and Consumer Protection Act into law. CREDIT: Congressman Barney Frank: Flickr.

Section 1: What are U.S.-listed companies required to do?

Figure 1: *Simplified flowchart for Section 1502 of the Dodd-Frank Act*[30]

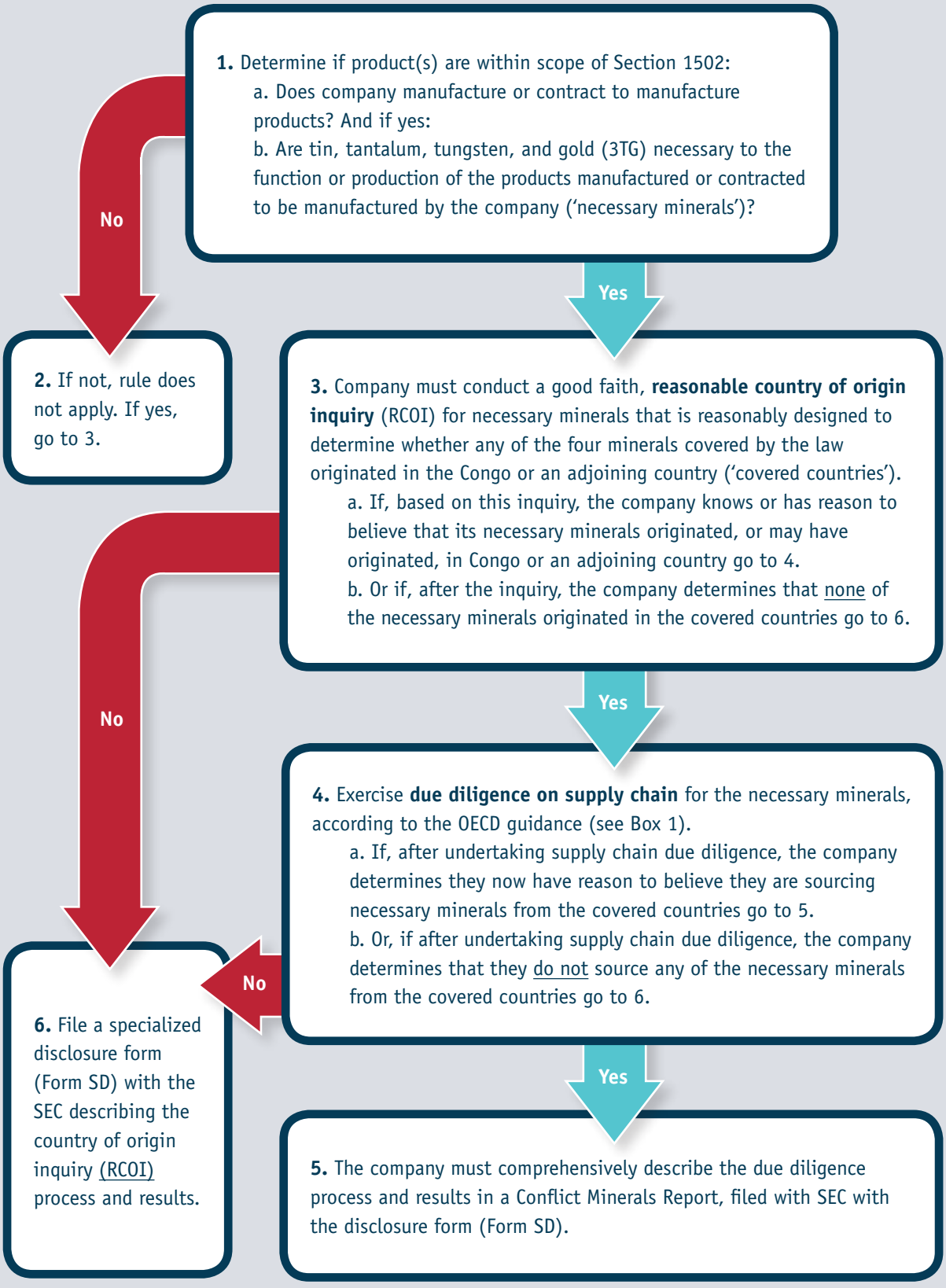
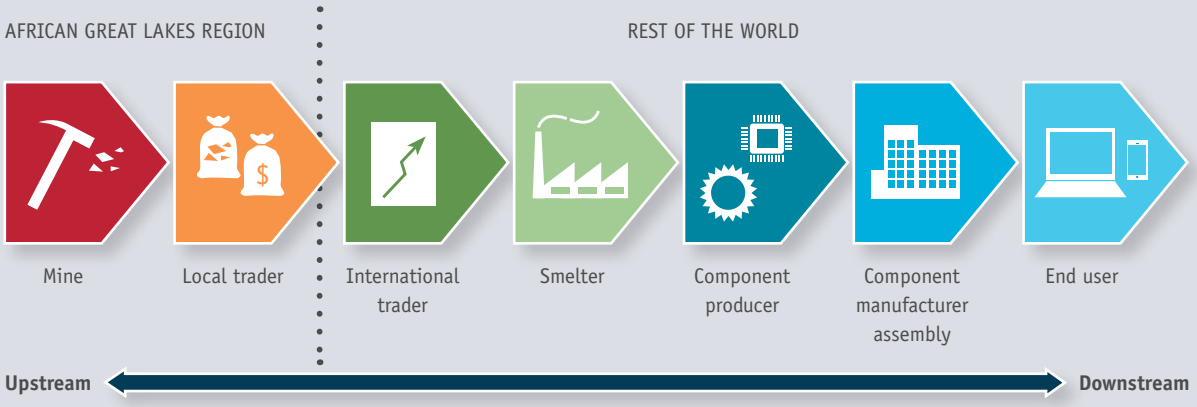


Figure 2: *Simplified electronics supply chain for metals sourced from Congo*



This diagram represents a simplified, linear supply chain, detailing a mineral's journey from mine to consumer. Section 1502 focuses on the downstream end of the supply chain, closest to the consumer, illustrated here as the "component producer," "component manufacturer assembly," and "end user." Through the supply chain due diligence process, companies further down the supply chain work with traders and companies closer to the mine to get more information about the minerals' origins.

If a U.S.-listed company determines that its products are within the scope of Section 1502, the first step it must take is to ascertain whether any of the necessary minerals in their products are sourced from one of ten 'covered countries' – Congo and its nine neighboring countries – by completing what is known as a reasonable country of origin inquiry (RCOI, see number 3 in figure 1).[31] Companies in our sample typically used a supplier survey as a means of gathering this information. Through these surveys, and by engaging with suppliers in a range of other ways, companies should be able to identify the metal processors – smelters or refiners – further upstream in their supply chain. These metal processors are widely recognized as the choke point in the minerals supply chain, as it narrows at this point: in comparison to either mines or downstream companies, there are only a relatively small number of smelters and refiners that process minerals worldwide.[32] They, therefore, often hold valuable information about a mineral's journey between the mine and the processor. As such, they can provide downstream companies with details of the minerals' country of origin.

If, through this country of origin inquiry, a company determines that they do not source, or have no reason to believe they source minerals from the ten countries covered by the law, they must describe the inquiry they undertook and disclose the results on the SEC's "specialized disclosure" form, called the Form SD (see number 6 in figure 1).

However, if a company knows, or has reason to believe, that it may have sourced minerals from the covered countries, it must undertake due diligence on the source and chain of custody of the minerals (see number 4 in figure 1). If that due diligence reveals that the company does not source minerals from a covered country, it need only file the disclosure form (see number 6 in figure 1). Otherwise, the company must provide a Conflict Minerals Report to the SEC, which includes a description of the due diligence measures taken, in addition to the disclosure form[33] (see number 5 in figure 1). Companies' disclosure forms and, if required, Conflict Minerals Reports must be submitted annually to the SEC on May 31 or the next business day.[34]

As explained above, for the companies who filed Conflict Minerals Reports, doing due diligence in conformity with the OECD guidance is a legal requirement of Section 1502.

Box 1: Five Steps of the OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas

The OECD guidance was written in collaboration with governments, international organizations, industry and civil society,[35] and has been endorsed by forty-three countries including the U.S.[36] Today it forms the global benchmark for risk-based supply chain due diligence.

The OECD due diligence framework lays out a five-step process that companies can use to ensure that their mineral purchases are not contributing to conflict or human rights abuses. The steps are:

1. **Establish strong company management systems.** This includes the development of a unique, company-specific conflict minerals policy and the creation of internal structures to support supply chain due diligence.
2. **Identify and assess risks in the supply chain.**
3. **Design and implement a strategy to respond to identified risks.** Once a company has defined and identified risk in its supply chain, it must work to mitigate and manage this risk through a risk management plan.
4. **Carry out an independent third party audit of supply chain due diligence at identified points in the supply chain.**
5. **Report annually on supply chain due diligence.**[37]

A soldier controls workers at the gold mine in Ituri region. CREDIT: Eric Feferberg: Getty Images

Larisse, an artisanal miner from Walungu, South Kivu. CREDIT: Global Witness

Hopes and challenges of an artisanal miner from South Kivu

Larisse knows the labyrinth of mines that run through the South Kivu province of eastern Congo better than most. The 37-year-old father of six, from Walungu territory, arrived at Mushangi mine eight years ago. The former cattle owner lost his stock during the conflict. He now lives close to his mine, 100km from the rest of his family. But his move into mining has not been easy.*

"In November 2012, I sold my own car to get capital to buy minerals here and to pre-finance diggers. I sold it for $4000 and…was able to buy two tonnes of mineral. But then members of the army came and plundered the mineral that I'd bought, so I lost my capital. After that happened, I had no choice but to return to town [Bukavu]. I've been back here a year now, digging and working. The diggers here have no food or tools. They have no support; no guarantees. To put food on the table, they have to work.

I can sometimes start work at six in the morning and then I will work until 11am or midday [when] someone else takes over from me. Then I re-enter to watch over the other diggers later in the day…Sometimes we work 24 hours. Each day, what we earn depends on what we dig; it depends on the pit. There are even those who will work for a whole day without earning anything. Last week, we found in one pit…a bit of gold. […] For that first bit of gold, we only got 4500 Francs [around $5].

My wish for the future is for our mining site to be validated. And we need financing… to help us survive, so we can eat. Regarding 'blood minerals,' I'm against sites where you find warlords who benefit from the site and who profit from the minerals and the productions at the site. The more we encourage them in the sites the more we encourage and facilitate them to find arms and it's like that that they continue to harm the population."

*His name has been changed.

Section 2: How did companies do in their first reports?

The main finding of our analysis is that only twenty-one percent of companies in our sample met all twelve of the criteria that constitute the minimum requirements of Section 1502 (see Methodology section above). While these criteria do not represent an exhaustive list of steps companies should take, this demonstrates that seventy-nine percent of companies we analyzed did not meet the minimum requirements of the law.[38] This leaves U.S. companies at risk of using and selling products that contain conflict minerals. It also means that consumers cannot have confidence that adequate measures have been taken by the majority of companies to properly understand their supply chains and the risk of contributing to conflict and human rights abuses.

Figure 3 breaks down what percentage of the companies we analyzed that met each of the twelve criteria. Criteria with high levels of compliance are:

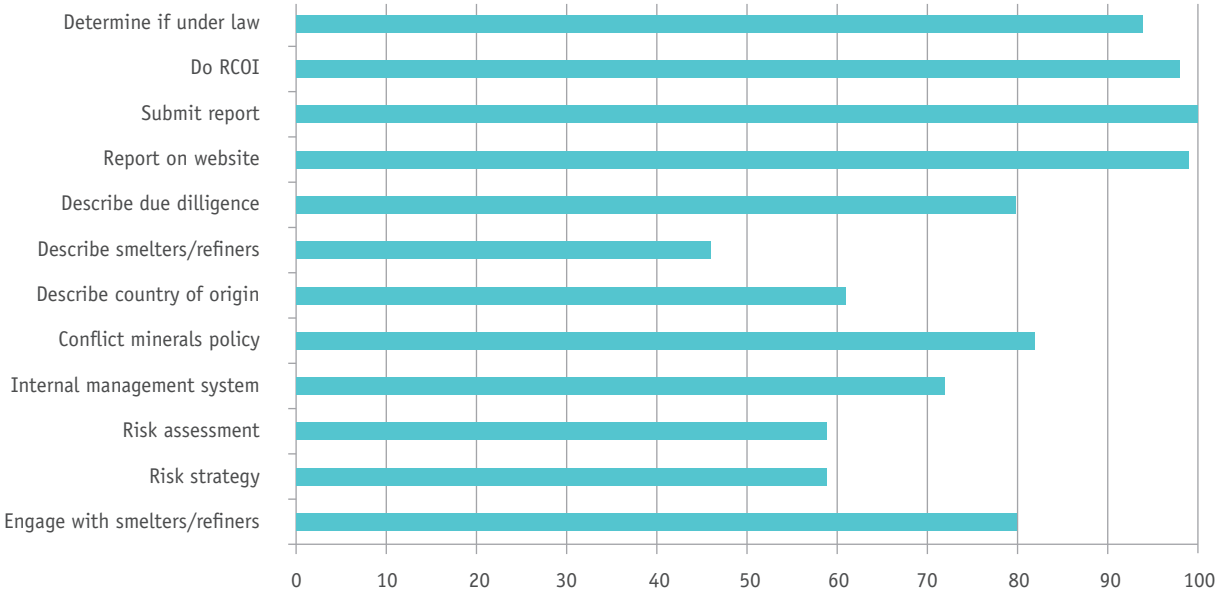
- criterion 4: ninety-nine percent made the report available on the company's website;
- criterion 2: ninety-eight percent completed a Reasonable Country of Origin Inquiry; and
- criterion 8: eighty-two percent demonstrated that they have adopted and committed to a conflict minerals policy.

The criteria with the lowest rates of compliance are:

- criterion 6: forty-six percent of companies in our sample described the facilities used to process the minerals, if known;
- criteria 10 and 11: fifty-nine percent of companies in our sample had processes in place to identify and assess risks; the same number had a strategy to respond to identify risks and described this in its report; and
- criterion 7: sixty-one percent met the requirement to describe the county of origin of the four minerals, if known.

This analysis demonstrates that companies' first Conflict Minerals Reports were weak in relation to identifying and responding to risk in the supply chain. Companies also performed poorly in identifying the origin of minerals and the smelters and refiners in their supply chains. Companies also performed relatively poorly in identifying the origin of minerals and the smelters and refiners in their supply chains. See the paragraphs below in relation to Steps 2 and 3 of the OECD guidance for more discussion of supply chain risks and how companies are responding to them, and Step 5 on country of origin and smelters and refiners.

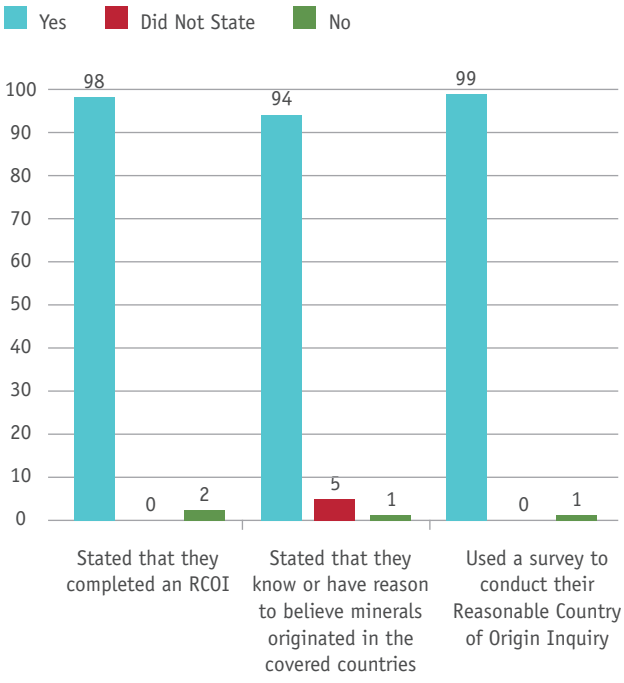
Figure 3: *Percentage of companies analyzed that met each of the twelve minimum criteria of Section 1502 and the OECD guidance (see Methodology section for more on the criteria)*



The first part of this section (part A) assesses the supplier surveys that most companies carried out to ascertain the country of origin of the minerals they use. The second part (part B) analyzes how far the company reports adhered to the five steps of the OECD guidance, as required by the SEC final rule for Section 1502 (see Box 1). Recommendations are made throughout this section to highlight areas where improvement is needed and to help companies ensure that they are undertaking meaningful due diligence and reporting properly on their efforts.

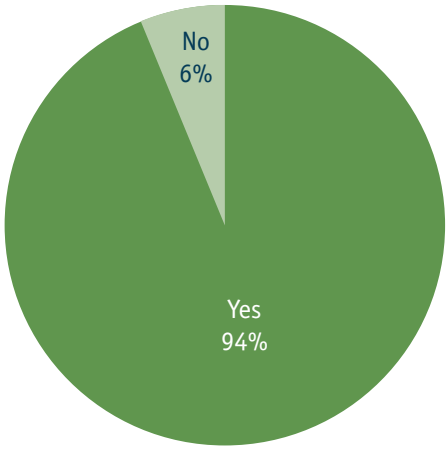
Part A: How U.S.-listed companies engaged with their suppliers to find out where their minerals came from

Figure 4: *Reasonable country of origin inquiry (RCOI) statistics*



All but one company in our sample said they used supplier surveys as the primary means to gather information about the different tiers in their supply chain. Ninety-four percent of the companies whose reports we analyzed stated that, following their country of origin inquiry, they either knew or had reason to believe that minerals necessary to the functionality or production of their products originated from Congo or its neighbors. The remaining six percent of company reports did not state whether the inquiry was conclusive or not, falling short of the requirements specified by the SEC.

Figure 5: *Did the company use the Conflict Minerals Reporting Template?*



Ninety-four percent of companies exclusively relied on the Conflict Minerals Reporting Template, a standardized reporting template developed by the Conflict-Free Sourcing Initiative (CFSI), a joint project by the Electronic Industry Citizenship Coalition and the Global e-Sustainability Initiative.[39] Widespread use of a single survey model can be advantageous to suppliers; using the same template to respond to customer inquiries increases efficiency and may boost response rates. However, downstream companies should also consider tailoring the survey to ask their suppliers specific questions about whether they have identified risk, and if so, the strategies they've employed to mitigate that risk.

Some companies did inform and engage suppliers about responsible sourcing

Companies can acquire critical information to increase their understanding of their supply chain by engaging with their suppliers. Sixty-two percent of companies in our sample demonstrated efforts to go beyond a basic supplier survey. Most passed educational materials about Section 1502 or the OECD guidance along their supply chain.

Some companies also developed training and capacity-building opportunities for their suppliers. One of the companies in our sample - U.S. valve maker and engineering company CIRCOR International - stated that it provided training materials for its survey in several different languages to its suppliers around the world.[40] Kulicke and Soffa Industries, a semiconductor equipment manufacturer

based in Singapore, described "outreach events, and supplier's training" in which its first tier suppliers were invited to an event to learn about the requirements of Section 1502.[41] Another approach was highlighted by the U.S. retail giant Target which stated in its Conflict Minerals Report that it reserved the right to "conduct unannounced spot-checks of vendors" who may have produced products that contain the four minerals covered by Section 1502 and "have access to their documentation."[42] While Global Witness and Amnesty International cannot attest to the quality of these programs, efforts such as these can lead to better business practices and drive responsible sourcing along supply chains and into conflict-affected and high-risk areas. Downstream companies can and should use their leverage in this way to promote responsible sourcing practices.

Over half of the companies did not have a policy to follow up with non-responses by their direct suppliers

Only forty-seven of the companies we analyzed provided any information about the number of suppliers they surveyed. While fifteen percent of these companies surveyed more than 1,000 suppliers, forty-nine percent surveyed less than 250. On average, companies received responses from only sixty-nine percent of suppliers they surveyed. It is concerning that so many suppliers failed to respond to inquiries. Companies must do more to increase response rates and tackle the opacity of their supply chains.

While the final rule implementing Section 1502 is not prescriptive about the steps necessary to satisfy the country of origin inquiry (RCOI) requirement, it does stipulate that the inquiry must be reasonably designed and performed in good faith. In September 2014, Keith Higgins, the director of the SEC's Division of Corporation Finance noted that companies' RCOI processes needed "sharpening up."[43] Although it is not a legal requirement of Section 1502, companies should give information on the number of suppliers surveyed, and responses received, to ensure greater transparency and confidence in the process.

"On average, companies received responses from only sixty-nine percent of suppliers they surveyed."

Figure 6: *Does the company have an explicit policy to follow up with suppliers that do not reply to an inquiry?*

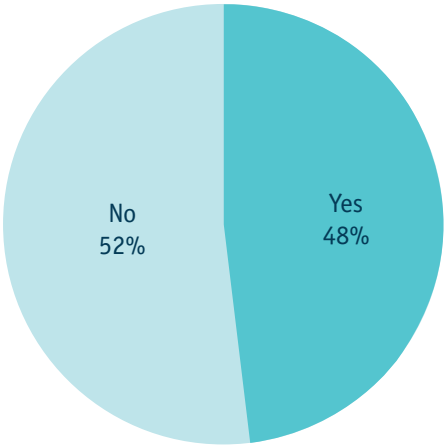
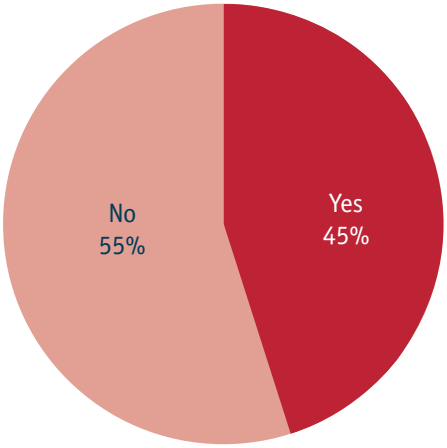


Figure 7: *Does the company have an explicit policy to follow up with suppliers that provided incomplete, inconsistent or otherwise not credible data?*



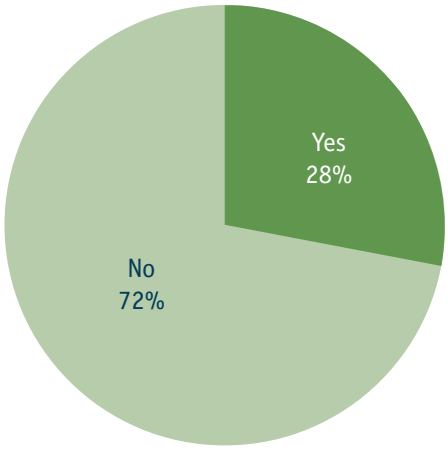
When companies received replies from suppliers that were either incomplete or seemingly incorrect, their responses were split down the middle. Just under half (forty-eight) of the reports we analyzed said that the company had a policy in place to follow up with unresponsive or uncooperative suppliers. For example, U.S. retailer The Home Depot stated that its policy for unresponsive suppliers was to follow up multiple times offering such assistance as providing "further information about the [Conflict Minerals Policy], an explanation of why the information was being collected, a review of how the information would be used, and clarification regarding how the required information could be provided."[44]

Forty-five percent of the companies reported having a policy in place to address suppliers that submit inadequate survey responses. Over half of companies we analyzed did not report having any such policies in place.

As part of their supplier engagement, Microsoft employed internal auditors "to conduct onsite audits" of sixty-one relevant suppliers in 2013 to determine if they had adopted a conflict minerals policy and if they had adequate support mechanisms in place to ensure compliance.[45]

Some companies built requirements for due diligence into their contractual relationship with suppliers. But most did not.

Figure 8: *Did the company add a conflict minerals-related clause to existing, new, or renewed contracts with suppliers?*



Twenty-eight percent of companies analyzed built clauses related to conflict minerals into their renewed, new and/or existing supply contracts. For some companies, these contracts required suppliers to comply with information requests about the minerals' chain of custody. For others, the contracts stipulated that the suppliers' compliance with the company's Conflict Minerals Policy was mandatory. Inclusion of conflict mineral-related clauses in contracts can be a useful way for downstream companies to exert leverage over suppliers and prompt more responsible sourcing behavior. The OECD guidance has some recommendations for downstream companies to improve the transparency and management of their supply chain (see Box 2).

However, companies should not pass on all responsibility to suppliers. Responsible companies should also ensure that contractual clauses do not encourage their suppliers to disengage from high-risk areas. Rather, contracts should promote risk-based due diligence and responsible mineral trading in these areas while avoiding harmful parts of the trade. For example, Washington State electronic component manufacturer Data I/O, said that its policy was to disengage with suppliers, when necessary, if appropriate risk management measures were not undertaken. The company further explained that these "efforts are not to ban procurement of minerals from Congo and adjoining countries, but to assure procurement from responsible sources in the region."[46] Ultimately, the aim should be to improve standards throughout the supply chain in order to help reduce funding of conflict and serious human rights abuses.

Box 2: OECD recommendations for better supply chains

The OECD guidance recommends that downstream companies establish a system of controls and transparency over their minerals supply chain as follows:

1. Establish, where practicable, long-term relationships with suppliers as opposed to short-term or one-off contracts in order to build leverage over suppliers;
2. Communicate to suppliers their expectations on responsible supply chains of minerals from conflict-affected and high-risk areas, and incorporate the supply chain policy and due diligence processes set out in the guidance into commercial contracts and/or written agreements with suppliers which can be applied and monitored, including, if deemed necessary, the right to conduct unannounced spot-checks on suppliers and have access to their documentation;
3. Consider ways to support and build capabilities of suppliers to improve performance and conform to company supply chain policy;
4. Commit to designing measurable improvement plans with suppliers with the involvement, if relevant and where appropriate, of local and central governments, international organizations and civil society when pursuing risk mitigation.[47]

Part B: How well U.S.-listed companies carried out due diligence

Figure 9: *Number of Companies that reference each of the OECD guidance steps in their reports*

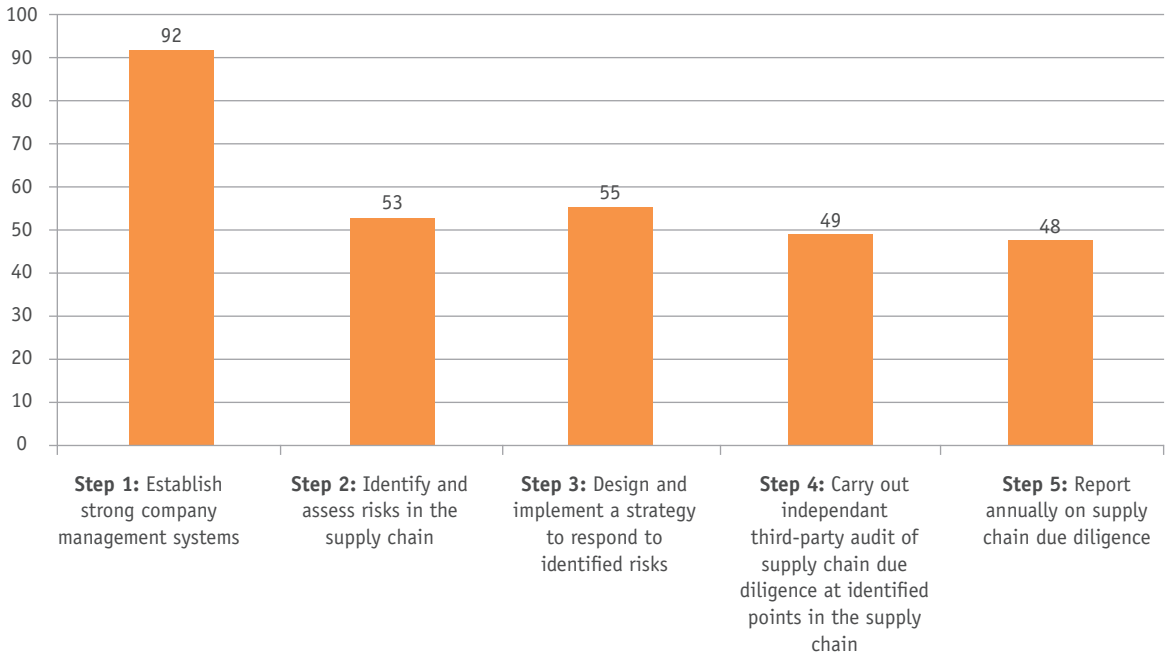
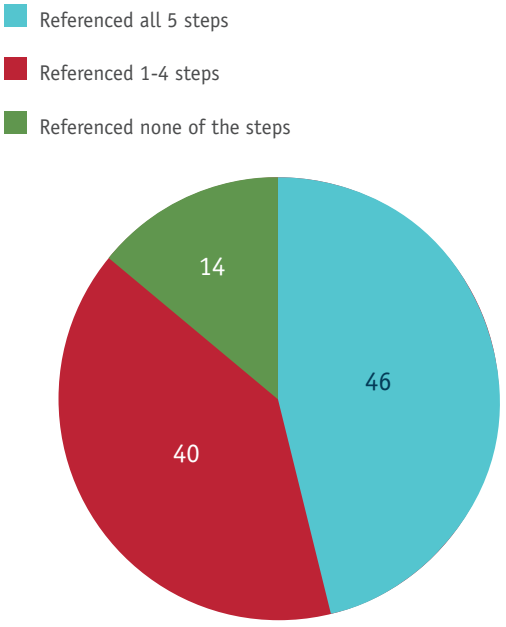


Figure 10: *Number of Companies that reference the OECD guidance steps in their reports*



Any U.S.-listed company that believes its minerals come from Congo or its neighbors must conduct supply chain due diligence in accordance with the OECD guidance.[48] The reports demonstrated strong awareness about the OECD guidance among companies. Almost all (ninety-six percent) companies in our sample stated in their reports that their due diligence conformed to the standard set in the OECD guidance. Only four companies did not reference the OECD guidance at all in their filings to the SEC. These were Aetrium, a Minnesota-based semiconductor equipment manufacturer, Mindray Medical International, a Chinese medical equipment manufacturer, Preformed Line Products, an international manufacturer in the communications and energy sectors, and Zoom Telephonics, a Boston-based modem manufacturer.

However, the majority of companies failed to show how they had followed the OECD guidance. Only forty-six percent of the surveyed companies provided information to the SEC about what they had done to follow each of the five steps in the guidance. Responsible companies should describe their supply chain checks in detail. Corporations that simply state that their supply chain checks meet a standard such as that of the OECD guidance, without providing further explanation, will likely leave interested parties, such as investors and consumers, with more questions than answers about their efforts. All companies should carefully read the OECD due diligence guidance and clearly show in their reports how they are meeting the standard.

The reports of companies that detailed how they adhered to the OECD framework, step-by-step, were easier to follow than those that did not. Companies should consider adopting this format in future reporting years, in order to most clearly communicate their efforts to their interested investors and consumers.

How did companies do on Step 1 – Establish Strong Company Management Systems?

Figure 11: *Did the company say that it had developed a Conflict Minerals Policy?*

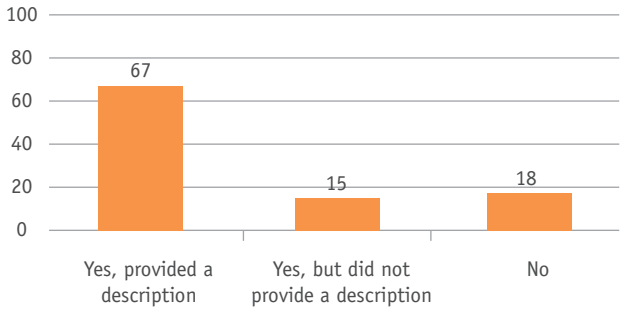


Figure 12: *Did the company say that it had developed an internal management system?*

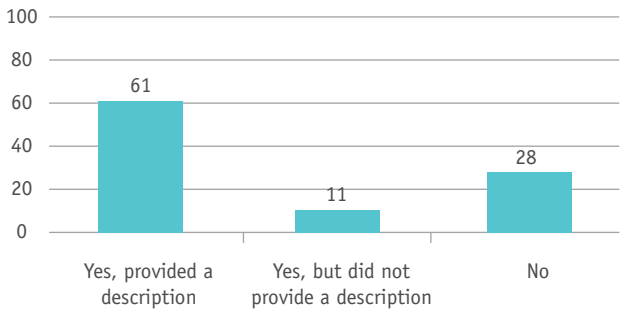
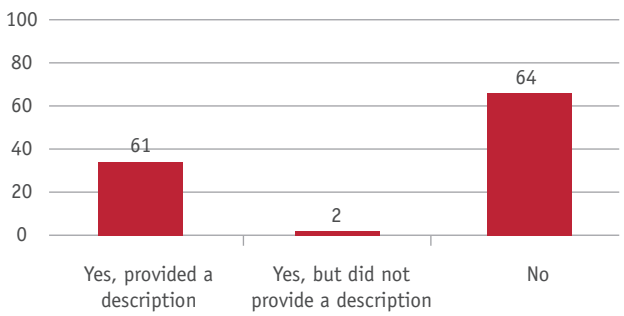


Figure 13: *Did the company say that it had developed a grievance mechanism?*



Step 1 of the OECD guidance requires companies to create internal systems to operationalize their conflict minerals management program.

Creating a strong conflict minerals policy is central to meeting this step of the due diligence guidance. This policy sets the tone for a company's compliance with Section 1502 and, crucially, should govern its efforts to source materials responsibly. While eighty-two percent of companies in our sample stated that they have a conflict minerals policy in place, only twenty-one percent included the text of their policy in their reports. Sixty percent of companies provided web links to their conflict minerals policies.

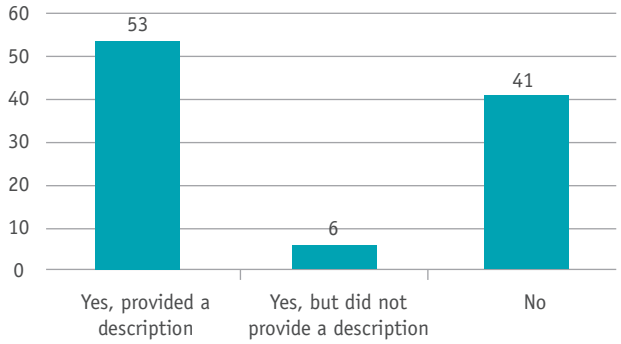
At a minimum, companies should make clear in their reports that their policy is consistent with the standards set forth in the model supply chain policy in Annex II of the OECD guidance.[49] Companies that provide this level of detail are not only demonstrating their commitment to international standards but also clarifying the benchmark against which their own sourcing practices are being measured internally.

According to the OECD guidance, companies should structure their internal management systems to support their due diligence efforts and establish systems to manage, and ensure transparency in, their mineral supply chain. Sixty-one percent of companies reported that they had an internal management system in place. Some also said they had a system or computerized program in place to maintain critical information about supply chain due diligence processes. Companies should ensure that these systems include a way to keep records of findings and resulting decisions.

The OECD guidance also recommends that companies should have a grievance mechanism in place. This is important to ensure that any affected people or whistle-blowers can freely voice concerns about the circumstances of mineral extraction, trade, handling and export in a conflict-affected and high-risk area, without fear of retribution. The purpose of the grievance mechanism is to act as an early-warning, risk-awareness system and to complement audits, supplier checks and other company processes to detect risk. Only thirty-six percent of companies stated that they had a grievance mechanism in place. All companies should establish and implement a grievance mechanism.

How did companies do on Step 2 – Risk Identification and Assessment?

Figure 14: *Did the company demonstrate that it had developed a risk identification and assessment policy?*



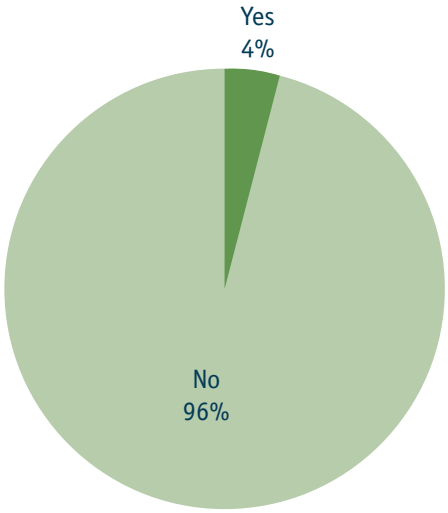
Step 1 of the OECD guidance requires that companies adopt and implement their own conflict minerals supply chain policy. Under Step 2, they put that policy into practice by using it to identify and assess the actual or potential risks of doing business in a conflict-affected or high-risk area.

It is vital that companies make serious efforts to understand the types of risk that may arise in their supply chain – and have in place robust policies and processes to become aware of and address these risks should they occur. Our analysis shows that just over half of companies provided a description of their risk identification policy in their Conflict Minerals Reports. Forty-one companies failed to mention such a policy.

More disappointingly, despite the fact that many companies acknowledged that they could not rule out the possibility that the minerals they were sourcing benefitted armed groups, none of the companies in our sample disclosed any specific examples of risk identified in their supply chain. This is despite abundant risks associated with sourcing minerals from areas controlled by armed groups in Congo and elsewhere (see Boxes 3 and 4).

In order to gain access to valuable information about where their minerals come from and the associated risks, companies need to identify and engage with the smelters and refiners in their supply chain. Although all of the companies in our sample conducted some type of supplier outreach, and many worked with industry schemes to help identify their metal processors, only fifteen percent of companies said that they had been in contact with their metal processors directly. Contacting suppliers is only going one link up in the supply chain; such an approach is limiting and leaves most of the supply chain in the shadows.

Figure 15: *Did the company contact their metal processors to assess the quality of their due diligence?*



Companies that have not identified their metal processors and assessed the quality of their due diligence are falling short of the OECD guidance and are failing to get valuable information about where their minerals come from. If smelters and refiners that buy minerals from traders do not undertake proper due diligence, there is a risk of them funding conflict and fuelling human rights abuses.

As required by Section 1502, the U.S. Department of Commerce released a list of identified tin, tungsten, tantalum and gold processing facilities.[50] The list was published in September 2014, eighteen months overdue. This list can assist companies seeking to verify the existence of smelters and refiners that they have identified through their supplier inquiries. However this list of metal processors is only meant to provide an objective list of established and verified smelters and refiners, not a comment on whether they are conflict free.

The potential risks associated with smelters were exposed in 2014, when Global Witness reported how an Ernst & Young audit found that Kaloti Jewellery International, a Dubai-based refiner and precious metals trader, did not employ sufficient due-diligence related to potentially suspicious cash transactions worth over US$5.2 billion.[51] This was assessed as "breach of protocol and zero tolerance."[52]

In addition, Ernst & Young's report highlighted that the company had failed to do adequate checks on gold bought from high-risk suppliers. In one instance, Ernst & Young described this as showing "misrepresentation and falsification of documentation by the supply-chain supplier with the knowledge and acceptance of KJI."[53] Kaloti Jewellery International denies any allegation of non-compliance with the Dubai Multi Commodities Centre (DMCC) guidance and emphasizes that it has at no time been found by Ernst & Young to be sourcing from conflict zones.[54] Kaloti's denial is all very well - and Kaloti have since claimed to have improved their systems – but although the Ernst & Young audit does not demonstrate that Kaloti were purchasing from conflict zones, equally because of its inadequate (at the time) due-diligence processes, Kaloti cannot prove that it was not.

At the time of going to press, in April 2015, it was reported that Kaloti had been, "delisted from Dubai Good Delivery Gold Members list," according to the DMCC, "because they have not met DMCC's practical guidance for market participants in the gold and precious metals industry."[55]

Box 3: What is supply chain risk? Some examples from Congo

As companies begin to identify risk through supply chain investigation and mapping, they should ensure that their recognition of risk is sufficiently broad to include serious abuses associated with the extraction, transport or trade of minerals.[56]

The OECD guidance has specific recommendations for all mineral companies that source from or operate in conflict-affected and high-risk areas: that they do not tolerate, contribute to or by any means profit from human rights and other abuses like forced or child labor, or money laundering, in the extraction, transport or trade of minerals.[57] Companies filing under Section 1502 that wish to demonstrate meaningful supply chain due diligence in full compliance with standards laid out in the OECD guidance should strive to demonstrate their efforts to identify and manage these other types of risks as well.

Human rights abuses

The OECD guidance says that companies should immediately suspend or terminate their relationships with suppliers if they identify a reasonable risk that they are sourcing from a party involved in any of the following serious abuses:[58]

- Any forms of torture, cruel, inhuman and degrading treatment;
- Any forms of forced or compulsory labor;
- The worst forms of child labor;
- Other gross human rights violations and abuses such as widespread sexual violence; and
- War crimes or other serious violations of international humanitarian law, crimes against humanity or genocide.

The risk of direct or indirect support to non-state armed groups

Under the OECD guidance, companies should also immediately suspend or terminate their relationships with suppliers if they identify, through their due diligence efforts, a reasonable risk that they are providing "direct or indirect support" to non-state armed groups through the extraction, transport, trade, handling or export of minerals.

Potential risks

Example 1 – Mai Mai Morgan, Orientale Province: conflict and rape linked to gold mining

In December 2013, the UN Group of Experts on Congo reported that, in September and October 2013,

militias associated with Paul Sadala (also known as Morgan) attacked several gold mines in the east of the country.[59] The UN reported that, during these attacks, the group typically "stole gold, pillaged food and other goods, raped women and girls, kidnapped people to carry looted goods, and forced women to be "wives" for militia members."[60] In an attack in October 2013 on a gold mining area at Sohuma, six women were raped and fifty people were taken hostage, according to the UN. Morgan used close relationships with senior military leaders in the Congolese national army (FARDC) to exchange gold for arms and ammunition, according to the UN. Ninety-eight percent of Congo's gold exports leave the country illegally, although not all of these will be 'conflict gold'.[61]

Example 2 – Congolese army tin smuggling rackets

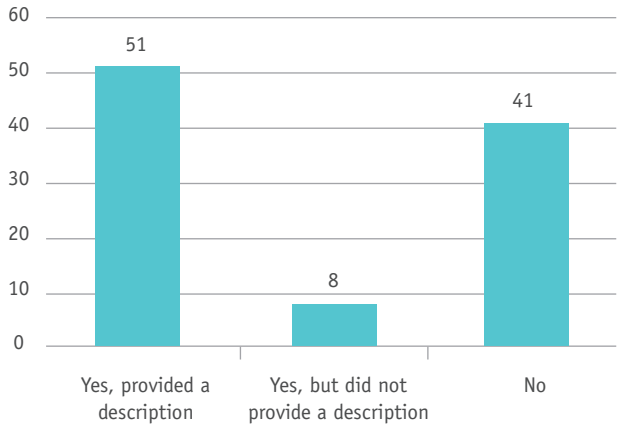
In March 2013, Global Witness research uncovered a military-led smuggling racket operating at the Kalimbi mine, Nyabibwe, South Kivu. Local monitors reported that Congolese army commanding officers stationed at the nearby town were siphoning off a portion of minerals produced at the mine. This was before the minerals entered a responsible sourcing initiative that required them to be 'bagged and tagged'. Global Witness published research which suggests that large quantities of untagged cassiterite – two tons in just one month – were being smuggled out of the mine site approximately twice a month. It was transported in military vehicles to Goma, where it was sold on.[62]

Following the publication of this research, a group of stakeholders monitoring the mine worked with the International Organization for Migration to confirm the facts.[63] This led to the military involved in the smuggling racket being removed from the site, although they were not sanctioned. Legal trade later resumed at the mine.

Men digging for gold in a pit in Ituri region. CREDIT: Randy Olson: Getty Images

How did companies do on Step 3 - Risk Mitigation and Management?

Figure 16: *Did the company develop a risk mitigation strategy?*



Under the OECD due diligence guidance required by the SEC rule, each downstream company must develop and implement a strategy to reduce any supply chain risks that it finds after undertaking a risk assessment. Companies should have a risk management plan in place and use this strategy in order to adequately and fairly respond to risks (see Box 3 and 4) as they occur.

Although fifty-nine percent of companies in our sample stated that they have a risk management plan, most reports we analyzed lacked a comprehensive description of strategies employed by companies to respond to any risks that may be identified. Fewer than half of companies said that they report risk to senior management.

Companies that did describe their risk management plans most commonly stated that their policy was to terminate a relationship, or simply disengage with suppliers that do not comply with their conflict minerals policy or supplier code of conduct. Companies should pursue risk mitigation efforts before resorting to disengagement and termination; as the OECD guidance only recommends disengaging with suppliers "in cases where mitigation appears not feasible or unacceptable."[70] It is best practice, if suppliers have identified risk further up their supply chain, for reporting companies to monitor the degree to which their suppliers implement risk mitigation measures and include this information in their annual filings under Section 1502.

Companies without a risk mitigation or management plan should take urgent steps to establish and then implement a plan in accordance with OECD guidance.[71] Supply chain due diligence is a process that should improve continually. In future reporting periods, companies reporting under Section 1502 should demonstrate where they have made measurable improvements in terms of identification and management of risk.

Figure 17: *Did the company report risks to senior management?*

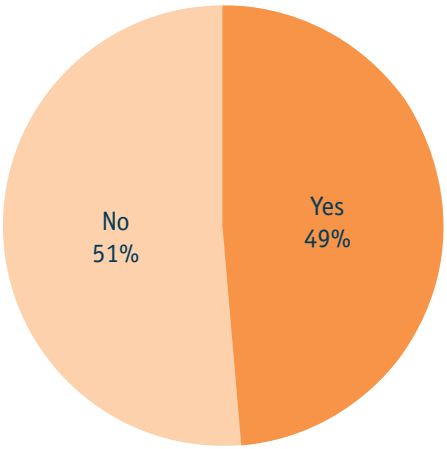
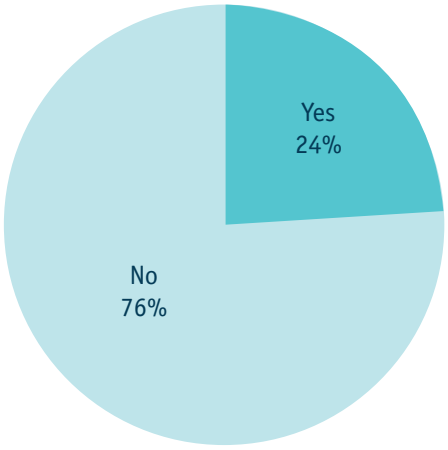


Figure 18: *Does the company mitigate risk by disengaging with or terminating the relationship with its suppliers?*



Box 4: Sourcing gold from North Korea

Sixty-eight companies of the 1,321 that filed reports to the SEC under Section 1502 in 2014, including Hewlett Packard (HP) and IBM, disclosed in their Conflict Minerals Reports that at least one of their suppliers used gold refined by the Central Bank of the Democratic People's Republic of Korea, the official name for North Korea.[64] This exposes those companies to the risk of gold smelted in that country entering their supply chain - a possible violation of U.S. sanctions, which prohibits companies from directly or indirectly importing goods from North Korea.[65]

According to *Bloomberg*, HP launched an investigation upon learning in January 2014 that North Korean gold "may be used by a small number of HP suppliers."[66] Subsequently, HP and IBM both told The New Yorker that following investigations they found no evidence that North Korean gold made it into their products.[67]

Some companies, despite including the "Central Bank of the DPR of Korea" in their reports, said that they believed that the smelter was in South Korea.[68] It is not clear whether these companies knew prior to press reports that there was a risk that they were sourcing gold from one of the world's most repressive states.

A spokesperson for the Conflict Free Sourcing Initiative (CFSI), which had mistakenly listed the smelter as being located in South Korea, told the *Wall Street Journal* it would be "impossible for us to know" if suppliers were still sourcing gold from the pariah state.[69] She added that the North Korean bank had now been removed from the CFSI's listings.

This report does not allege that U.S.-listed companies sourced gold from North Korea. Nevertheless, this case demonstrates two things of relevance to this report. First, that more light must be shed on supply chains. Second, that many companies apparently failed to adequately analyze the information collected from their suppliers and were unaware of risks. Assessing and reducing risk is an essential part of due diligence. Observers will be looking closely to see how companies have responded to this in the second year of Conflict Minerals Reports.

How did companies do on Step 4 - Independent Third-Party Audits of Smelter and Refiner Due Diligence?

Figure 19: *Does the company rely on the Conflict-Free Smelter Program (CFSP) to verify its metal processors?*

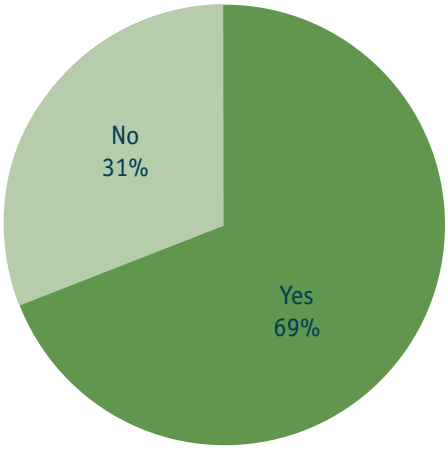
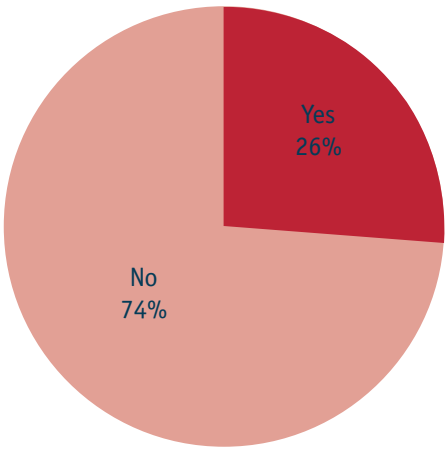


Figure 20: *Does the company require suppliers to source exclusively from 'conflict-free' metal processors?*



Metal processors, such as smelters and refiners, are the choke point in the supply chain. Downstream companies must identify the smelters or refiners in their supply chains and do a proper assessment of their due diligence practices, in accordance with the OECD guidance.[72] Properly undertaken, smelter or refiner audits provide essential information for end-user companies about the quality of the due diligence being undertaken by the metal processors from which they source their minerals.

Over two-thirds of our sample (sixty-nine percent) relied on an industry program known as the Conflict-Free Smelter Program (CFSP) to verify their metal processors. This Program is coordinated by the Conflict-Free Sourcing Initiative (CFSI) and, according to its website, "offers companies and their suppliers an independent, third-party audit that determines which smelters and refiners can be validated as 'conflict-free.'"[73]

Twenty-six percent of companies went further and stated in their reports that they had adopted a policy to only source minerals from metal processors certified as conflict free by CFSP or other third party certification schemes. For example, General Electric's Lighting Division said that it had already "suspended purchases from first-tier tungsten smelters that are not verified or scheduled for a verification audit" by CFSP.[74]

Several companies, including New York-based G-III Apparel Group and California-based Cisco Systems, stated in their reports that they independently contacted the smelters or refiners in their supply chain they had identified, to assess the quality of their due diligence and, in some instances, requested that they undergo a CFSP audit.

The growth of due diligence industry initiatives, such as the CFSP, demonstrates an increased engagement by some parts of the private sector in creating 'clean' supply chains for minerals. Third-party tools such as these are encouraged by the OECD due diligence guidance.[75] If combined with robust standards, they can facilitate industry-wide cooperation and build capacity among companies. Industry-wide initiatives could also help to reduce costs of compliance by creating economies of scale.

However, even if companies participate in industry initiatives, the OECD guidance makes clear that they "retain individual responsibility for their due diligence."[76] Companies should also balance the use of external compliance schemes against the need to build their own internal capacity to fully understand their own supply chains and to exert influence on their suppliers. Companies that rely largely on consultants or industry schemes risk missing a valuable opportunity to strengthen relationships with their suppliers, smelters and refiners.

There are two crucial ways in which the CFSP scheme should improve. First, the audit protocols do not require all of its participating metal processors to undertake supply chain due diligence in accordance with the OECD guidance.[77] Global Witness and Amnesty International urge CFSP to bring its audit protocols in line with the OECD standard's risk-based approach: to require all smelters and refiners to implement the OECD guidance, in particular to undergo an independent audit of these checks as provided for under Step 4 of the OECD guidance.

Second, CFSP audits of smelters and refiners should be made public. This is currently not happening. Companies reporting under Section 1502 need to be able to review smelters or refiners due diligence and should make their own determination as to the quality of their metal processors' due diligence and conflict free status. The publication of smelter audits would also enable CFSP members to fully assure their consumers that they have met OECD due diligence standards.

"CFSP audits of smelters and refiners should be made public. This is currently not happening."

A handful of companies in our sample reported that they had independently conducted site visits to their identified smelters and refiners; these companies included Apple, Intel, and Kennametal, a Pennsylvania-based supplier of tooling and industrial materials. Direct engagement with smelters or refiners can help downstream companies gain an improved understanding of their mineral supply

chains. Site visits are also a valuable opportunity to verify evidence of their metal processors' due diligence practices. Downstream companies and metal processors should work together to find ways to build capacity, reduce risk and improve due diligence.[78]

How did companies do on Step 5 – Reporting?

Figure 21: *Did the company list or describe the facilities used to process its minerals, if known?*

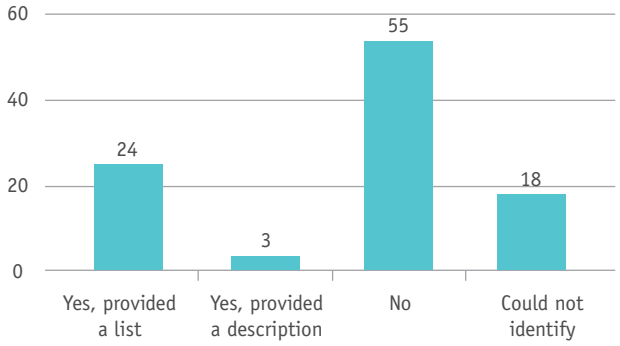
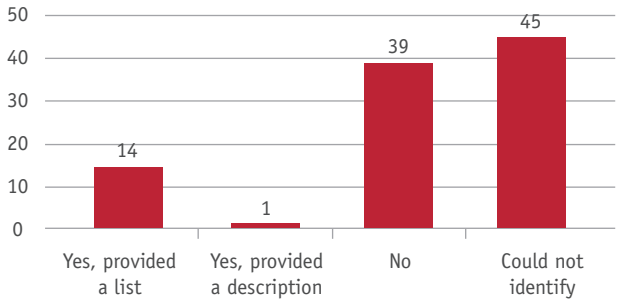


Figure 22: *Did the company list or describe the country of origin for its minerals, if known?*



Step 5 of the OECD guidance requires companies to publicly report on their supply chain due diligence policies and practices. Public reporting by companies should be as robust as possible in order to help ensure public confidence in the measures that they are taking.

In the first year of reporting, 1,321 U.S.-listed companies reported that tin, tantalum, tungsten or gold were necessary to the functionality or production of at least one of their products and filed a disclosure form (Form SD) with the SEC.[79] Of these, 1,017 companies said they could have sourced minerals from Congo and its neighbors and therefore also submitted a Conflict Minerals Report.[80]

Central to these reports is information on the metal processors and the country of origin of the minerals that companies have identified. Section 1502 requires companies to obtain and disclose this information "with the greatest possible specificity."[81] As shown in Figures 21 and 22, well over a third of companies in our sample did not comply with this component of the law, as they did not explicitly state whether they had found this information and, if so, disclose it. Twenty-four percent of companies provided a list of metal processors, seventy-three percent of companies failed to provide a list or any substantive description. About a third of the companies that failed to provide a list or any substantive description also failed to explicitly state that they had not been able to identify their metal processors, which is required under the law.

Only sixteen percent of companies, including Apple, electrical products trader Helen of Troy, Intel and Philips, disclosed the name of at least one country where the minerals in their products originated.[82]

Only one company in our sample, Boeing, provided specific information about a mine of origin for some of the minerals in its products, stating "one Surveyed Supplier indicated that it sourced tantalum from a mine in the Congo for use in Components supplied to us." Boeing then described how "[t]he smelter used to process this tantalum was identified as a certified conflict-free source under the Conflict-Free Smelter Program."[83]

Richer and fuller disclosure in future reports will be useful in demonstrating to consumers and investors that the company has conducted a thorough investigation into the conditions under which their minerals were produced and traded. We urge the SEC to ensure that these reports are sufficiently detailed in order for investors and consumers to make informed decisions. If companies cannot find out specific country of origin information they should explain what efforts they made and what obstacles they encountered, so that the challenges in monitoring their supply chain are understood, and so that solutions can be proposed.

Box 5: Independent Private Sector Audit

Section 1502 states that undertaking a private sector audit is a "critical component of due diligence."[84] The SEC rule originally required all companies that filed a Conflict Minerals Report to have it audited, although it was not mandatory for the first two years for large companies and four years for small companies.

However, in April 2014, following a decision by the U.S. Court of Appeals for the D.C. Circuit, the SEC issued new guidance that suspended the requirement for the Independent Private Sector Audit (IPSA) as it applies to most companies. A company is only required to have its due diligence efforts audited if it "voluntarily elects to describe any of its products as 'DRC conflict free' in its Conflict Minerals Report."[85] This guidance could be changed in the future by further action from the court or the SEC.

Following the SEC's updated guidance on conflict free status determinations, two companies in our sample chose to describe a particular product line as conflict free and undergo an independent audit: Intel and Philips, the Dutch technology company. Only four companies in total carried out an independent audit. Without these audits, there is no independent assessment of the information in the reports.

Global Witness and Amnesty International call on the SEC to reinstate the requirement to carry out an independent audit. We also call on companies, regardless of the conflict-free status of their product, to use an auditing process to improve the quality of their own due diligence.

The U.S. Securities and Exchange Commission building. CREDIT: Scott S: Flickr

Section 3: How can companies improve future reports? And why it matters

Reports filed under Section 1502 of the Dodd-Frank Act are an opportunity for companies to show that they are committed to transparent supply chains and not profiting from harm to others. More specifically, the reports provide a chance for a company to show how they are taking meaningful and comprehensive steps towards better managed and more responsible mineral sourcing from Congo and its nine neighboring countries. This kind of reporting is ground-breaking: never before have U.S. companies that source from high-risk or conflict-affected areas been required by law to examine and then report on business practices. If properly implemented by companies, Section 1502 can help support responsible mineral trading from Congo and help the trade in 'clean' minerals to flourish.

The inaugural reports required by the law not only showcase how some companies have found better ways of doing business. The production of the reports also shows that reporting on supply chains is feasible. And the content of the reports, analyzed here, demonstrates the value and importance of such reporting. In the first year alone, more than one fifth of U.S.-listed companies surveyed have managed to meet the minimum requirements of the law.

"In the first year alone, more than one fifth of U.S.-listed companies surveyed have managed to meet the minimum requirements of the law."

The reports we analyzed not only show it can be done, but also that some companies have done better and more detailed reports than others. This underlines the potential for improved reporting by many other companies. It will be important that companies look at each other's reports as Michael Littenberg, a partner at Schulte Roth & Zabel, a legal firm that works on conflict minerals compliance, said recently: "companies are going to want to be incorporating best practices from the filings of competitors, peers and other companies that are perceived as market leaders."[86] Analyses of the reports, such as the yet to be published assessment of the accuracy of due diligence from the Commerce Department, should help improve the standard of reporting.

However, our analysis also highlights how much work companies need to do to really understand and better manage their supply chains. Many company reports in our sample leave important questions about their supply chain checks unanswered. They do not provide interested investors and consumers with sufficient information to make informed investment or purchasing decisions, and fall short of convincing the general public that the company has sought to address – or even looked for – adverse impacts along their supply chains.

There is no longer any excuse for companies to look the other way – let alone not to look at all – where conflict-free sourcing is concerned. As companies gather more information about the conditions under which the minerals in their products were mined and traded, Global Witness and Amnesty International expect to see company Conflict Minerals Reports grow in richness and depth and include clear and detailed information about their supply chains and risks in the coming years.

The vast majority (eighty-one percent) of companies acknowledged, in their first year reports, that improvements in reporting were needed. Companies' improvement plans commonly included:

- Increasing their response rate from direct suppliers;
- Enhancing educational and training opportunities for suppliers;
- Identifying a greater percentage of smelters and refiners;
- Improving the quality of engagement with suppliers and smelters/refiners; and
- Working with relevant trade associations to improve best practices.

This is encouraging and overlaps with some of the recommendations of this report. But companies must dive deeper into their supply chains.

This section highlights areas for improvement and makes recommendations to help companies ensure that they are undertaking meaningful due diligence and reporting properly on their efforts.

U.S.-listed companies should fully implement the five steps of OECD guidance

Although implementing the OECD guidance is a legal requirement for companies that submit Conflict Minerals Reports, most surveyed companies failed to demonstrate that they complied with the OECD five steps in full, as discussed in section two of this report.

In the second year's reports, all companies should demonstrate that they have adopted a conflict minerals policy and internal structures to put it into practice. All companies should have a grievance mechanism in place. They should be able to show that they have identified their smelters and refiners, or at the very least, they should describe in detail their efforts to do so. They should review their metal processors' supply chain due diligence efforts against the requirements set out by the OECD guidance.

Finally, companies should report on how they defined, identified, mitigated and managed risk in their supply chain with specific details and examples. In future reports, we expect to see examples of risk that companies have identified, coupled with information on how they reduced those risks. Failure to provide this kind of information will undermine public confidence in the validity of Conflict Minerals Reports. Most importantly, doing so would miss the point of the exercise, which is to identify problems in the supply chains and rectify them, so that clean, responsible trade from the countries covered by the law continues but harmful trade does not. Identifying and publically disclosing risk in the supply chain is not a scarlet letter that companies should fear, but an indication that due diligence is being properly implemented. All companies face some level of risk in their supply chain operations. In the context of responsible sourcing of minerals from conflict-affected and high-risk areas, what separates responsible companies from irresponsible ones is the ability to illustrate how they identify and address these risks.

Artisanal miner holding minerals in Mwenga, South Kivu.
CREDIT: Global Witness

Some companies have demonstrated that they can effectively implement Section 1502 and reap the benefits. The sanctions for those who fail to follow the law are untested.

Before the first Conflict Minerals Reports were filed, some companies voiced concerns that complying with Section 1502 was either too difficult or too expensive.[87] Our analysis of the reports shows that while seventy-nine percent of the companies we evaluated failed to meet the minimum requirements of the law, the remainder (twenty-one percent) did meet those requirements. These companies demonstrate that complying with Section 1502 of Dodd-Frank is possible. Across the board, companies were relatively successful in completing their Reasonable Country of Origin Inquiries and have taken steps to develop internal systems to manage their supply chain due diligence. The priority for future reporting years needs to be demonstrating that these systems are being correctly implemented, including by disclosing examples of risk and explaining the accompanying risk mitigation efforts that have been undertaken.

Not only is full implementation achievable, but research shows that supply chain due diligence is a worthwhile endeavor for companies themselves. Companies can reap a wide range of benefits by complying with Section 1502. In a study which looked at twenty global companies, their executives said that the law could lead to better risk management and a more efficient supply chain. One executive said, "[t]he more transparency that we have in our supply chain, the lower the risks for us." Another said that pushing companies to gather richer and deeper information about their supply chains allowed them to "more effectively… manage" their supply chains.[88] The law can also help companies meet rising expectations for responsible corporate behavior from customers, investors and employees. Tulane University found that seventy-

eight percent of companies who have filed Conflict Minerals Reports and were included in its study felt better prepared to respond to consumer inquiries about their sourcing practices.[89]

The legal consequences of poor conflict minerals filings have yet to be tested. Similar to other filing requirements, the SEC can sanction companies that file false and misleading Conflict Minerals Reports or fail to file a report when one is required. The SEC has the power to delist a company from the stock exchange, but this is used extremely rarely and only against egregious, repeat offenders. Fines are more common. In addition, investors could sue a company if they have lost money due to false or misleading conflict minerals filings. No such cases have yet been filed.

A Presidential Executive Order (no. 13671) adopted in July 2014 makes the support of armed groups in Congo "through the illicit trade in natural resources" punishable by sanctions including the freezing of assets.[90] The order applies to individuals and all U.S. companies, whether listed on the stock exchange or not. This is entirely separate from the reporting requirements under Section 1502, but it may encourage privately held U.S. companies which are outside the scope of Section 1502 to perform due diligence in order to minimize their risk of being placed on a sanctions list. The Executive Order should also encourage companies required to report under Section 1502 to ensure that their disclosure is as full and accurate as possible.

Dodd-Frank has catalyzed reforms at international, regional and local levels – but more needs to be done.

We have seen progress in the last few years, but the campaign to clean up the trade in conflict minerals remains urgent and necessary. Recent research from the UN Group of Experts report on Congo found that gold from mines controlled by rebels groups such as Nduma Defense of Congo (NDC) headed by Ntabo Ntaberi Sheka who is wanted by Congolese authorities for crimes against humanity[91], and the Democratic Forces for the Liberation of Rwanda (FDLR), a group linked to Rwanda's 1994 genocide, was smuggled into Uganda last year. At least one of the buyers of those minerals in Uganda officially exported gold to Dubai and into the international market in the same year. The Group of Experts' report also found that significant quantities of coltan from eastern Congo were smuggled into Rwanda in the same period.[92]

The passage of Section 1502 places the U.S. at the forefront of efforts to ensure that companies source and trade natural resources responsibly without funding conflict and human rights abuses. The law's due diligence component has spurred efforts to clean up the supply chains of companies sourcing minerals beyond U.S. borders. Partly in response to Section 1502, the European Union is developing a regulation on conflict minerals, based on the OECD guidance, with a view to ensuring that supply chains coming into Europe are responsibly managed and do not contribute to conflict or human rights abuses.[93] In October last year, the China Chamber of Commerce of Metals Minerals & Chemicals Importers & Exporters (CCCMC), a body supervised by the Chinese Ministry of Commerce, introduced guidelines for Chinese companies to operate in a socially responsible manner overseas. The guidelines include standards for supply chain due diligence, among other issues, and recognize the OECD guidance as due diligence good practice. They suggest companies implement the OECD five step due diligence framework when operating in conflict-affected or high-risk areas.[94] This shows how the OECD guidance is emerging as the global standard, which should help multinationals with a presence in multiple jurisdictions that require supply chain due diligence.

"the OECD guidance is emerging as the global standard, which should help multinationals with a presence in multiple jurisdictions that require supply chain due diligence"

These schemes will not resolve the crisis in eastern Congo alone, but they are an important part of a comprehensive approach that includes improvements in governance and reform of security services in the Great Lakes region.

In concert with these efforts, the International Conference on the Great Lakes Region (ICGLR), a group of twelve African states including Congo, has endorsed the OECD guidance and integrated it into a regional due diligence and certification scheme to combat the illegal trade of minerals.[95] Once the scheme is fully operational and an independent auditor has been put in place to ensure its credibility, it should provide more publicly available information on the trade and transportation of minerals from mines to smelters and refiners.

In Congo, the government, non-governmental organizations and private businesses have also ramped up efforts to clean up the mining sector, in part to meet the emerging international market demand for clean, 'conflict-free' minerals that has followed the passage of Section 1502.

In 2012, the Congolese government passed a law requiring all mining and mineral trading companies operating in Congo to "ensure that they do not contribute to human rights violations or conflicts in DRC."[96]

In parallel, the Congolese government – in partnership with international donors – is slowly undertaking a domestic review of mine sites in Congo, known as mine site validation. Mines are given a green, yellow or red rating by joint missions made up of civil society, government and private sector.[97] Green mines are deemed to be under the control of state administration and clear of the presence of Congolese army soldiers, armed groups, children of under fifteen years and pregnant women.[98] By November 2014, 116 mines in eastern Congo had been validated "green" out of 152 visited.[99] The process has been beset by significant challenges.[100]

The Congolese authorities should publish the detailed reports of mine site validations, but have not yet done so. If this is done, they could provide companies – or their metal processors – reporting under Section 1502 with information useful to due diligence checks and reporting.

Private sector initiatives are also underway in Congo. A bagging and tagging traceability and due diligence program, run by the International Tin Research Institute's Tin Supply Chain Initiative (iTSCi) is now operating at mines in Congo, as well as at over four hundred mine sites across the border in Rwanda; the scheme was also launched last year in Burundi.[101] Other OECD-based due diligence and traceability schemes, such as GeoTraceability, are also being developed in the region.[102]

Together, these efforts open up opportunities to establish 'conflict-free' trading from mines in Congo and help U.S. and other international companies ensure that they buy from Congo, Rwanda and other countries covered by Section 1502 in a responsible way. They also bring to the fore of international attention a multitude of long-standing issues linked to reform of Congo's artisanal mining sector, including labor conditions, pay for workers and proper capture and reinvestment of state taxes. Artisanal miners, also known in Congo as "diggers," work in terrible, unsafe conditions; more must be done to uphold their rights. Global Witness field research and other NGO reports suggest that the control of mines by armed groups and members of the Congolese army has reduced in easier to reach areas, but often continues indirectly, through illegal taxation or forced labor, in harder to access or less secure sites.[104] Serious violations and problems remain, especially in the artisanal gold sector, where there are no large-scale traceability or due diligence systems in operation.

Congolese miners by a collapsed entrance of Mugumbano gold mine, South Kivu. CREDIT: Guillem Valle: Corbis

Conflict minerals due diligence – an important part of the response to transnational crisis

By requiring companies to look beyond their first tier suppliers, Section 1502 helps companies along the supply chain to not only understand their role in directly or indirectly financing conflict and human rights abuses, but also to recognize their potential value in helping to contribute to a secure, sustainable mining sector – one that benefits the people of eastern Congo and other conflict-affected and high-risk areas.

Breaking the links between Congo's mineral trade and the armed groups (and rogue members of the national army) will not resolve eastern Congo's conflict. But ensuring that the minerals trade does not benefit parties in a conflict will reduce one of their most significant sources of funding.[104] Undertaking risk-based supply chain due diligence does not prevent companies from purchasing minerals from high-risk areas such as Congo. Rather, it requires companies to be aware of their supply chains and ensure that the sourcing decisions they make benefit artisanal miners and their communities and do not benefit armed groups.

Recommendations

Companies reporting under Section 1502 of the Dodd-Frank Act should:

- Submit meaningful and detailed information about their supply chain due diligence and clearly demonstrate compliance with each of the five steps of the OECD guidance in subsequent Conflict Minerals Reports. They should specifically:
- Improve the response rate from suppliers by, amongst other things, adopting a policy to follow up with uncooperative suppliers, providing training material on conflict minerals and where appropriate amending contracts.
- Directly engage with smelters and refiners identified in their supply chain to learn more about the minerals' chain of custody and seek evidence of the due diligence they have undertaken.
- Provide specific examples of supply chain risks they have identified in future Conflict Minerals Reports.
- Ensure that they effectively assess supply chain risks by developing robust risk mitigation and management processes, and describing and demonstrating the implementation of those processes in their Conflict Minerals Reports.
- Undertake an independent private sector audit of their due diligence measures, regardless of the conflict status of their products.

The U.S. Securities and Exchange Commission should:

- Reinstate the requirement for an independent private sector audit of all Conflict Minerals Reports and confirm that all large companies will be required to do an audit of the reports they will file from 2016 onwards.
- Impose penalties on companies that file incomplete, false or misleading reports.
- Closely review future Conflict Minerals Reports filed by companies. Egregiously poor reporting should serve as a red flag, and the SEC should refer any evidence of breaches of Executive Order no. 13671 to the U.S. Office of Foreign Assets Control (known as OFAC). Those companies and individuals found to be in breach of the Executive Order should be sanctioned accordingly.

The U.S. Department of Commerce should:

- Publish a report assessing the accuracy of due diligence processes of U.S.-listed companies as mandated by U.S. Congress.

The Conflict-Free Sourcing Initiative (CFSI) should:

- Make publication of due diligence audit reports by smelters and refiners a requirement for certification and ensure reports are published.
- Ensure that its tin, tantalum, tungsten and gold audit protocols require smelters and refiners to undertake and evidence supply chain due diligence to the OECD standard.
- Expand the scope of the due diligence requirements to include minerals from other high-risk and conflict-affected regions.

Annex 1

Our Sample

Figure 23: *Sector Representation in our Sample*

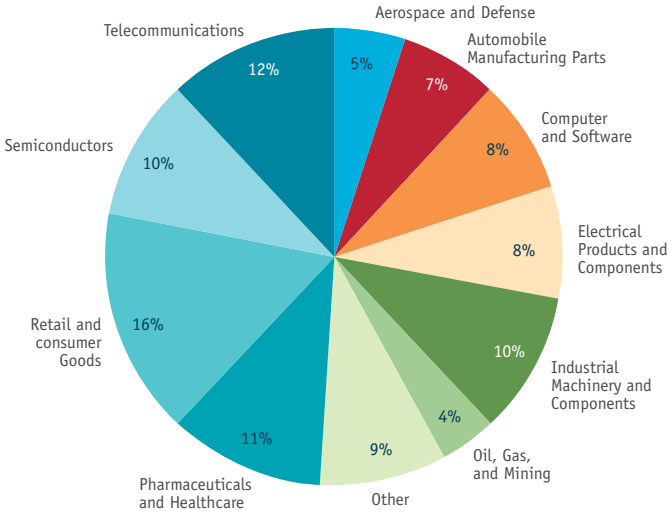


Figure 24: *Geographical Location by Company Headquarters*

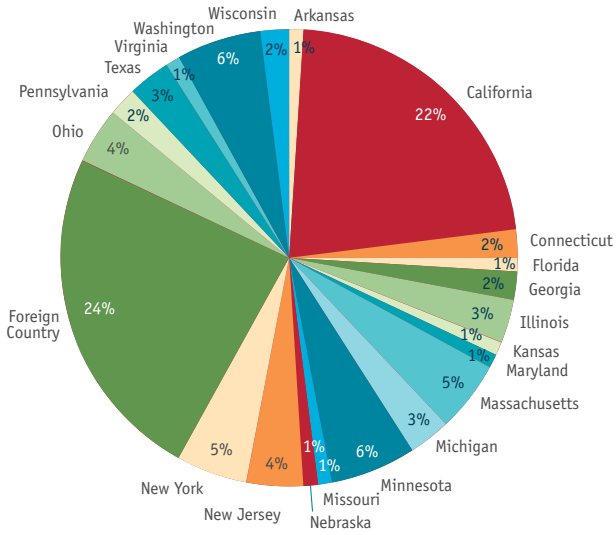


Figure 25: *Geographical Location of Foreign Companies by Company Headquarters*

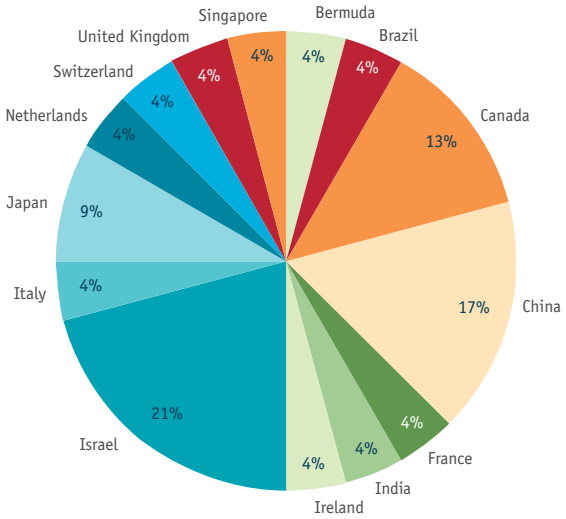
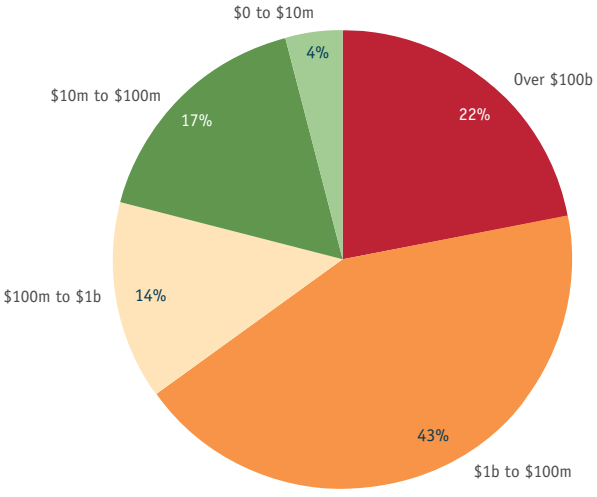


Figure 26: *Companies in our Sample by Market Cap*



List of companies in sample

3M Company

Advanced Photonix Inc

Aetrium Incorporated

Affymetrix

Allegion plc

Allied Healthcare Products Inc.

Amazon.com, Inc.

Apple Inc.

Baxter International Inc.

Bed Bath & Beyond Inc.

Berkshire Hathaway Inc.

Birks Group Inc

Boeing Company (The)

Calix, Inc

China Mobile Ltd. (ADR)

CIRCOR International, Inc.

Cisco Systems, Inc.

Clean Energy Fuels Corp.

CostCo Wholesale Corp

Cray Inc

CSP Inc.

Cubic Corporation

Data I/O Corporation

Digital Ally, Inc.

Dillard's, Inc.

Ecolab Inc.

Elbit Systems Ltd.

Electro-Sensors, Inc.

Eltek Ltd.

Embraer SA (ADR)

ENI S.p.A.

General Electric Company

Giga-tronics Incorporated

G-III Apparel Group, LTD.

Google Inc.

Helen of Troy

Hewlett-Packard Company

Home Depot, Inc. (The)

Honda Motor Company, Ltd.

Image Sensing Systems, Inc.

Imris Inc

Integrated Device Technology, Inc.

Intel Corporation

International Business Machines Corporation

Johnson & Johnson

Kennametal Inc.

Kohl's Corporation

Koninklijke Philips N.V.

Kulicke and Soffa Industries, Inc.

Luna Innovations Incorporated

Macy's Inc

Merck & Company, Inc.

Meritor, Inc.

Micronet Enertec Technologies, Inc.

Microsoft Corporation

Mindray Medical International Limited

Motorcar Parts of America, Inc.

Novartis AG

NVIDIA Corporation

On Track Innovations Ltd

Oracle Corporation

PACCAR Inc.

Pall Corporation

PC-Tel, Inc.

Pointer Telocation Ltd.

Powell Industries, Inc.

Preformed Line Products Company

Procter & Gamble Company (The)

Pro-Dex, Inc.

QUALCOMM Incorporated

Raytheon Company

ResMed Inc.

Rio Tinto Plc

RIT Technologies Ltd.

Sanmina Corporation

Schlumberger N.V.

Semiconductor Manufacturing International Corporation

SemiLEDS Corporation

Sierra Wireless, Inc.

Sigma Designs, Inc.

Smith & Wesson Holding Corporation

Spectrum Brands Holdings, Inc.

Target Corporation

Tata Motors Ltd

Tech Data Corporation

Teradata Corporation

Tesco Corporation

Tesla Motors, Inc.

TESSCO Technologies Incorporated

Thermon Group Holdings, Inc.

Tiffany & Co.

Toyota Motor Corp Ltd Ord

TriMas Corporation

Triumph Group, Inc.

United Technologies Corporation

Vicon Industries, Inc.

Vitesse Semiconductor Corporation

Walt Disney Co

Zep Inc.

Zoom Technologies, Inc.

Endnotes

1. Securities and Exchange Commission, "Conflict Minerals; Disclosure of Payments by Resource Extraction Issuers; Final Rules," 17 CFR Parts 240 and 249b (hereafter, "SEC Final Rule"), September 12, 2012 http://www.gpo.gov/fdsys/pkg/FR-2012-09-12/pdf/2012-21153.pdf

2. Investigations into company supply chains, which are not limited to DR Congo or to the minerals covered by Section 1502 of the Dodd-Frank Act, are becoming more and more commonplace. See France 2, "Cash Investigation: Les secrets inavouables de nos téléphones portables," November 4, 2014, http://www.francetvinfo.fr/replay-magazine/france-2/cash-investigation/cash-investigation-du-mardi-4-novembre-2014_730935.html. See also BBC 1 Panorama, "Apple's Broken Promises," December 18, 2014, http://www.bbc.co.uk/programmes/b04vs348

3. The OECD guidance is a five-step supply chain due diligence framework, formally called the *OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas*. See the Methodology section and footnote 11 for more information about how we drew up the list of the twelve requirements.

4. We evaluated company responses against twelve core requirements that companies must meet under Section 1502 of the Dodd-Frank Act and the OECD guidance, see footnote 11. The companies who met the minimum requirements, according to our analysis, were 3M, Bed, Bath and Beyond, Cisco Systems, Clean Energy Fuels, CSP, Cubic Corp, Eltek, Embraer, General Electric, Helen of Troy, Hewlet Packard, Intel Corporation, Macy's, Microsoft, Philips, ResMed, Sigma Designs, Tesla Motors, Tessco Technologies, Tiffany & Co., and Toyota. The indicators we used for this analysis do not represent an exhaustive, comprehensive list of requirements.

5. OECD "Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas," Second Ed, November 2012, (hereafter "OECD Due Diligence Guidance"), http://www.oecd.org/daf/inv/mne/GuidanceEdition2.pdf, Annex I

6. OECD Due Diligence Guidance, p.8

7. The annual reporting deadline for companies' conflict minerals disclosures is May 31. In the first reporting year, May 31 fell on a Saturday. As a result, the next available business day, Monday, June 2, served as the deadline.

8. Using FTSE classification system, the sectors selected by Global Witness and Amnesty International are: Aerospace; Auto Manufacturing; Computer Manufacturing; Department/Specialty Retail Stores; Electrical Products; Industrial Machinery/Components; Medical/Dental Instruments; Radio and Television Broadcasting and Communications Equipment; Semiconductors; and Telecommunications Equipment.

9. SEC Final Rule, p. 56274, 56281

10. Although the SEC left open the possibility that "other evaluation standards may develop that satisfy the intent" of Section 1502, *id*. at 5,326, it recognized when adopting the final rule that "it appear[ed] that the only nationally or internationally recognized due diligence framework available [was] the due diligence guidance approved by the Organization for Economic Co-operation and Development," *id*. at 56281.

11. For more information about Section 1502 requirements in criteria 1-7, please see SEC, Form SD, Specialized Disclosure Report (hereafter, "Form SD"), https://www.sec.gov/about/forms/formsd.pdf. For more information about the OECD requirements in criteria 8-12, see OECD Due Diligence Guidance. For information on criteria 1 and 2, see Form SD Item 1.01(a). For criterion 3 and 4, see Form SD Item 1.01 (c). For criterion 5, see Form SD Item 1.01(c)(1)(i) and OECD Due Diligence Guidance, Supplement on Tin, Tungsten and Tantalum, Step 2, Section II, A and Supplement on Gold, Step 2, Section III, A. For criteria 6 and 7, see Form SD Item 1.01(c)(2)(i). For criteria 6 and 7, for this first year of reports we also considered companies as meeting this requirement if they explicitly stated that they did not have any information about the processing facilities or country of origin information. For information on criteria 8 and 9, see OECD Due Diligence Guidance, Annex 1, Step 1. For criterion 10, see OECD Due Diligence Guidance, Annex 1, Step 2. For criterion 11, see OECD Due Diligence Guidance, Annex 1, Step 3. For criterion 12, see OECD Due Diligence Guidance, Supplement on Tin, Tungsten and Tantalum, Step 1, C.5 (1) and see Supplement on Gold, Section II, E.

12. U.S. Congress, Section 1502(a) of the Dodd-Frank Wall Street Reform and Consumer Protection Act: "It is the sense of the 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)," http://www.gpo.gov/fdsys/pkg/PLAW-111publ203/pdf/PLAW-111publ203.pdf. See also SEC Final Rule, p. 56275

13. The International Rescue Committee (IRC) has estimated that 5.4 million people died between August 1998 and April 2007 due to the conflict. For more information, see IRC, "Mortality in the Democratic Republic of Congo: an Ongoing Crisis," 2007, p. ii, http://www.rescue.org/sites/default/files/resource-file/2006-7_congoMortalitySurvey.pdf

14. See UN Group of Experts reports on DRC, pursuant to resolution 1533 (2004) concerning the Democratic Republic of the Congo and Final Reports of the UN Panel of Experts 2001 – 2004, both available at http://www.un.org/sc/committees/1533/egroup.shtml. See also UN, "Security Council Condemns Illegal Exploitation of Democratic Republic of Congo's Natural Resources," May 3, 2001, http://www.un.org/press/en/2001/sc7057.doc.htm. See also Le Soir, "La rébellion exploite le sous-sol et ponctionne les provinces conquises Les richesses minières du Congo financent la guerre," Colette Braeckman, February 5, 1999, http://archives.lesoir.be/la-rebellion-exploite-le-sous-sol-et-ponctionne-les-pro_t-19990205-Z0GC8X.html. See also Pole Institute, "The Coltan Phenomenon: How a rare mineral has changed the life of the population of war-torn North Kivu province in the East of the Democratic Republic of Congo," January 2002, http://www.kongo-kinshasa.de/dokumente/ngo/polinst_coltan.pdf. See also Human Rights Watch, "The Curse of Gold," June 2005, http://www.hrw.org/reports/2005/drc0505/index.htm. See also CREDDHO, Communique de Presse N°001/CREDDHO/DPRN/011, "Trafic illicite des minerais au Nord-Kivu : La justice congolaise devra rapidement statuer en toute indépendance sur le cas flagrant des présumés auteurs de trafic illicite de minerais à Goma," http://www.congoforum.be/upldocs/CREDDHO_AVION%20COMPRESS%20TRAFIC%20ILLICITE-MINERAIS.pdf. See also International Peace Information Service, "Mapping Conflict Motives: Katanga Update, May – September 2008," January 5, 2009, http://reliefweb.int/sites/reliefweb.int/files/resources/9BF14C3A6D-F6E9C7C12575360039DCEB-Full_Report.pdf. See also the Guardian, "Children of the Congo who risk their lives to supply our mobile phones," Frank Piasecki Poulsen, December 7, 2009, http://www.theguardian.com/sustainable-business/blog/congo-child-labour-mobile-minerals. See also Al Jazeera, "Congo's Tin Idea," Fiona Lloyd Davis, May 2, 2013, http://www.aljazeera.com/programmes/peopleandpower/2013/05/20135194315617767.html. See also Radio Okapi, "Shabunda: 750 creuseurs artisanaux délogés de leurs sites miniers," January 25, 2015, http://radiookapi.net/actualite/2015/01/25/shabunda-750-creuseurs-artisanaux-deloges-de-leurs-sites-miniers/. See also Global Witness reports: *Under-Mining Peace, 2005; Faced with a Gun, What Can You Do? War and Militarization of Mining in Eastern Congo, 2009; The Hill Belongs to Them, The need for international action on Congo's conflict minerals trade,* 2010; all available at www.globalwitness.org

15. Global Witness, "Artisanal mining communities in eastern DRC: seven baseline studies in the Kivus," June 2012, https://www.globalwitness.org/sites/default/files/Summary_of_baseline_studies_Global_Witness.pdf. See also CRS, CCFD, CERN, "Etude des Besoins: Communautés minières de Luttwinja, Mukungwe, Ninja et Nzibira, Sud Kivu RDC." See also IPIS, "Conflict Minerals' Initiatives in DR Congo: Perceptions of Local Mining Communities," November 2013, p.16, http://reliefweb.int/sites/reliefweb.int/files/resources/20131112_HU.pdf

16. Forces Vives de la Republique Democratique du Congo Societe Civile du Nord Kivu, Coorindation de la Societe Civile du Territoire de Lubero, 'RAPPORT SUR LES ATROCITES ET VIOLATIONS DES DROITS DE L'HOMME PERPETREES PAR LES FDLR A L'ENDROIT DE LA POPULATION DU TERRITOIRE DE LUBERO (1998-2014): Document de lobbying et de plaidoyer pour la pacification et la reconstruction du Territoire de Lubero. " See Le Potentiel, April 25, 2014, "Lubero : la société civile dénonce l'« interdiction de chanter l'hymne national » décrétée par les FDLR," http://bit.ly/1F2KOIH

17. "A number of companies we spoke with told us that they were working to ensure their products are DRC conflict free regardless of any regulatory requirements to do so because their customers were insisting on it." From Green Research, "The Costs and Benefits of Dodd-Frank Section 1502: A Company Level Perspective," January 2012, http://www.sec.gov/comments/s7-40-10/s74010-470.pdf.

18. SEC Final Rule, p. 56275

19. Ibid, p. 56276, footnote 16, quoting 156 Cong. Rec. S3976 (daily ed. May 19, 2010)

20. SEC, "What we do," http://www.sec.gov/about/whatwedo.shtml#.VRLzoeGhPxo

21. SEC, "Proposed Rule: Conflict Minerals," shows that the SEC received 39,359 comments from individuals during the rulemaking, http://www.sec.gov/comments/s7-40-10/s74010.shtml

22. Comment to the SEC "RE: Comments Regarding File Number S7-40-10 on Conflict Minerals Disclosure" from Aditi Mohapatra, Calvert Asset Management Company, Inc., Bethesda, Maryland on behalf of 49 investors, March 2, 2011, http://www.sec.gov/comments/s7-40-10/s74010-158.pdf

23. Comment to the SEC, "Re: SEC Initiatives under the Dodd-Frank Act Special Disclosures Section 1502 (Conflict Minerals)" from Lauren M Compere, Managing Director, Boston Common Asset Management, Boston, Massachusetts on behalf of other investors, November 16, 2010, http://www.sec.gov/comments/df-title-xv/specialized-disclosures/specializeddisclosures-54.htm

24. For example, supply chain reforms in the coffee industry have been taking place since the mid-1980s, and have resulted in efforts to ensure more transparent and fairly traded coffee supply chains. See FLOCERT, http://www.flocert.net/. The food industry continues to work towards improved supply chain due diligence, as highlighted by the 2013 'horse meat scandal' in Europe in which food advertised as containing beef was found to in fact contain horsemeat. See also Ernst and Young, February 15, 2013," Less Than Half of Firms Carry Out Due Diligence in their Supply Chain, Figures Reveal, as Food Contamination Investigations Continue," http://www.ey.com/UK/en/Newsroom/News-releases/13-02-15---Less-than-half-of-firms-carry-out-due-diligence-in-their-supply-chain. In the textiles industry, the Rana Plaza Arrangement was developed in April 2013 after 1134 people were killed and hundreds were injured when Rana Plaza building in Savar, Bangladesh collapsed.

25. In October 2012, three industry associations—the U.S. Chamber of Commerce, the National Association of Manufacturers and the Business Roundtable—brought a legal challenge against the rule issued by the SEC, arguing that the rule issued by the SEC was overly burdensome and costly for companies to implement. In July 2013, the D.C. District Court upheld the law, rejecting industry groups' arguments. The industry groups appealed the judgment in August 2013. The U.S. Court of Appeals for the D.C. Circuit ruled on the appeal in April 2014.

26. Opinion of the U.S. Court of Appeals for the D.C. District, April 2014. http://www.cadc.uscourts.gov/internet/opinions.nsf/D3B5DAF947A03F2785257C-BA0053AEF8/$file/13-5252-1488184.pdf. See Global Witness press release, "U.S. Appeals Court ruling on conflict minerals law is a partial victory, says Global Witness: Court's decision on free speech violation disappointing," April 15, 2014, http://www.globalwitness.org/library/us-appeals-court-ruling-conflict-minerals-law-partial-victory-says-global-witness-courts-0. Free speech aspects of the April 2014 court decision are not final and are currently under review by the court. See Zorka Milin, "Do U.S. corporations have a constitutional right to conceal information about conflict minerals?," December 9, 2014, http://www.globalwitness.org/blog/do-u-s-corporations-have-a-constitutional-right-to-conceal-information-about-conflict-minerals

27. SEC, "Statement on the 'Effect of the Recent Court of Appeals Decision on the Conflict Minerals Rule'," Keith F. Higgins, April 29, 2014, http://www.sec.gov/News/PublicStmt/Detail/PublicStmt/1370541681994#.VHILRclKWK0

28. For the most recent report see: U.S. Government Accountability Office (GOA), "Conflict Minerals: Stakeholder Options for Responsible Sourcing Are Expanding, but More Information on Smelters Is Needed," June 26 2014, http://www.gao.gov/assets/670/664440.pdf

29. "The Commerce Department didn't have an immediate comment as to why it has delayed the report." According to the Wall Street Journal, "Just Four Companies Had Conflict Mineral Reports Audited," September 18, 2014, http://blogs.wsj.com/cfo/2014/09/18/just-four-companies-had-conflict-mineral-reports-audited. See also GOA, 2014, p. 17.

30. SEC Final Rule

31. Ibid

32. Galit A. Sarfaty, "Shining Light on Global Supply Chains," *Harvard International law Journal*, forthcoming, p.28, http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2512417. See also Jamie Darin Prenkert, "Conflict Minerals and Polycentric Governance of Business and Human Rights," *Law, Business and Human Rights: Bridging the Gap*, October 2013, p.221, http://www.alsb.org/wp-content/uploads/2013/11/NP-2013-Prenkert_Conflict-Minerals1.pdf. See also Government Accountability Office, "Report to Congressional Committees: Conflict Minerals," June 2014, http://www.gao.gov/assets/670/664440.pdf. See also PACT, "PROMINES Study: Artisanal Mining in the Democratic Republic of Congo," June 2010, p.51: map of a typical ASM supply chain, including smelters and refiners, http://www.congomines.org/wp-content/uploads/2011/10/PACT-2010-Promines-StudyArtisanalMiningDRC.pdf

33. SEC Final Rule, p. 56283

34. SEC, "SEC Adopts Rule for Disclosing Use of Conflict Minerals," August 22, 2012, http://www.sec.gov/News/PressRelease/Detail/PressRelease/1365171484002#.VMgGRy5v9vA

35. OECD Due Diligence Guidance, p. 3

36. OECD, "Ambassador Yohannes Head of U.S. Delegation at OECD Global Forum on Responsible Business Conduct," June 25, 2014, http://usoecd.usmission.gov/rr_062614.html

37. OECD Due Diligence Guidance, p. 17

38. See footnote 4 and Methodology section.

39. Conflict-Free Sourcing Initiative (CFSI), "Conflict-Free Sourcing Template," http://www.conflictfreesourcing.org/conflict-minerals-reporting-template/

40. CIRCOR International, Inc., Conflict Minerals Report, May 29, 2014, p. 4, http://www.sec.gov/Archives/edgar/data/1091883/000109188314000026/exhibit102.htm

41. Kulicke and Soffa Industries, Inc., Conflict Minerals Report, May 30, 2014, p.4 https://www.sec.gov/Archives/edgar/data/56978/000005697814000094/cmr.htm

42. Target Corporation, Conflict Minerals Report, June 2, 2014, p.5 http://www.sec.gov/Archives/edgar/data/27419/000110465914043078/a14-13835_1ex1d02.htm

43. Bloomberg BNA, "SEC Official Offers Three Pointers on Issuers' Conflict Mineral Disclosures," Yin Wilczek, September 19, 2014, http://www.bna.com/sec-official-offers-n17179895108/

44. Home Depot Company, Ltd., Conflict Minerals Report, May 29, 2014, p.3 http://www.sec.gov/Archives/edgar/data/354950/000035495014000021/hd_exx102x-sdx123113.htm

45. Microsoft Corporation, Conflict Minerals Report, June 2, 2014, p.3 http://www.sec.gov/Archives/edgar/data/789019/000119312514222351/d729787dex102.htm

46. Data I/O Corporation, Conflict Minerals Report, May 30, 2014, p.4, http://www.sec.gov/Archives/edgar/data/351998/000035199814000020/ex1_02.htm

47. OECD Due Diligence Guidance, p.20

48. SEC Final Rule, p. 56281

49. OECD Due Diligence Guidance, p.20

50. U.S. Department Of Commerce, "Reporting Requirements Under Section 1502(D)(3)(C) Of The Dodd-Frank Act World-Wide Conflict Mineral Processing Facilities," September 2014, http://www.ita.doc.gov/td/forestprod/DOC-ConflictMineralReport.pdf

51. 'Management Report, Al Kaloti Jewellers Factory Ltd', Ernst & Young, 29 August 2013

52. Ibid.

53. Ibid.

54. See MINING.com, "Dubai refiner responds to conflict gold charges", February 26, 2014, http://www.mining.com/dubai-refiner-responds-to-conflict-gold-charges-66484/ and Kaloti, "Kaloti Precious Metals confirmed as fully compliant", undated, http://www.kalotipm.com/Media-Center-PressReleases-Details/5/KALOTI-PRECIOUS-METALS-CONFIRMED-AS-FULLY-COMPLIANT

55. The National, "DMCC removes Kaloti from Dubai Good Delivery list over gold sourcing", April, 13 2015, http://www.thenational.ae/business/economy/dmcc-removes-kaloti-from-dubai-good-delivery-list-over-gold-sourcing

56. Section 1502 requires companies to determine whether they have "directly or indirectly finance[d] or benefit[ted] armed groups in the DRC." See 15 U.S. Code Section 78m (p)(1)(A)(ii) and (p)(1)(D), http://www.gpo.gov/fdsys/pkg/USCODE-2013-title15/pdf/USCODE-2013-title15-chap2B-sec78m.pdf. The OECD Guidance defines direct or indirect financing as "through the extraction, transport, trade, handling or export of minerals" that "includes, but is not limited to, procuring minerals from, making payments to or otherwise providing logistical assistance or equipment to" armed groups. See also OECD Due Diligence Guidance, p.21

57. OECD Due Diligence Guidance, see Annex II

58. While these are the most serious violations of human rights associated with high-risk and conflict-affected areas, companies nevertheless have a responsibility to respect all human rights wherever they operate and, to meet that commitment, should put in place in accordance with international standards a human rights due diligence process to identify, prevent, mitigate and account for how they address their impacts on human rights.

59. Final Report of the Group of Experts on the Democratic Republic of the Congo, UN Document S/2014/42, January 23, 2014, http://www.un.org/ga/search/view_doc.asp?symbol=S/2014/42 , p. 18

60. Ibid, p. 18

61. Ibid, p. 3

62. Global Witness, "Putting Principles into Practice," May 2013, http://www.globalwitness.org/sites/default/files/library/Putting%20principles%20into%20practice.pdf

63. The International Organization for Migration (IOM) undertook an investigation into the smuggling racket in Bukavu and Kinshasa. Pressure brought about by this enquiry prompted the officers alleged to have been involved in the racket to be removed from the site and posted elsewhere.

64. Global Witness search, using search term "Central Bank of the DPR of Korea" for all Section 1502 filings on SEC Info website, www.secinfo.com

65. U.S. Department of the Treasury, Office of Foreign Assets Control, "North Korea: An Overview of the U.S. Sanctions with respect to North Korea," May 6, 2011, p. 3, http://www.treasury.gov/resource-center/sanctions/Programs/Documents/nkorea.pdf

66. Bloomberg, "HP and IBM List North Korea as a Supplier in Conflict-Mineral Reports," Ian King, June 4, 2014, http://www.bloomberg.com/news/2014-06-03/hp-and-ibm-list-north-korea-as-a-supplier-in-conflict-mineral-reports.html

67. New Yorker, "Gold Chains," Mark Hay, August 4, 2014, http://www.newyorker.com/business/currency/gold-chains

68. Wall Street Journal, "North Korea Gold Taints U.S. Firms: Country Was Source of Metal used in Varity of Products," Joel Schectman, June 4, 2014, http://www.wsj.com/articles/north-korea-gold-taints-u-s-firms-1401924370?autologin=y

69. Ibid

70. OECD Due Diligence Guidance, Supplement on Tin, Tantalum and Tungsten, p. 44

71. Examples of appropriate risk mitigation efforts can be found in Annex III of the OECD Guidance. See OECD Due Diligence Guidance, see Annex III, p. 25

72. OECD Due Diligence Guidance, see Annex II; see also Supplement on Tin, Tantalum and Tungsten, Step 3 and Supplement on Gold, Step 3

73. See Conflict Free Sourcing Initiative and Conflict-Free Smelter Program, http://www.conflictfreesourcing.org/about/

74. General Electric, Conflict Minerals Report, June 2, 2014, p. 11, http://www.sec.gov/Archives/edgar/data/40545/000004054514000011/exhibit1.02.htm

75. OECD Due Diligence Guidance, see Step 4 (B)(d)(i)

76. OECD Due Diligence Guidance, see Step 2 of the Tin, Tantalum and Tungsten Supplement

77. Conflict Free Sourcing Initiative, "Conflict-Free Smelter Program (CFSP) Supply Chain Transparency Smelter Audit Protocol for Tin and Tantalum," November 21, 2013, http://www.conflictfreesourcing.org/media/docs/CFSI_CFSP_AuditProtocol_SnTa_ENG.pdf. See also Conflict Free Sourcing Initiative, "Conflict-Free Smelter Program (CFSP) Supply Chain Transparency Smelter Audit Protocol for Tungsten," November 19, 2013, http://www.conflictfreesourcing.org/media/docs/CFSI_CFSP_AuditProtocol_W_ENG.pdf. Gold audit protocol has not been published as of April 2015.

78. OECD Due Diligence Guidance, see Annex II; see also Supplement on Tin, Tantalum and Tungsten, Step 2 (II)(B) and Supplement on Gold, Step 2 (III)(C)

79. SEC, "Specialized Corporate Disclosure," http://www.sec.gov/spotlight/dodd-frank/speccorpdisclosure.shtml

80. Global Witness count of total number of filings June 2014, updated January 2015. This number was much lower than the SEC's estimate of 5,994 filers. All filings available at SEC Info, under Form SD filings, www.secinfo.com.

81. 15 U.S. Code Section 78m (p)(1)(A)(ii), http://www.gpo.gov/fdsys/pkg/USCODE-2013-title15/pdf/USCODE-2013-title15-chap2B-sec78m.pdf

82. In our sample, Apple, Baxter, Boeing, Cubic Corp, Ecolab, General Electric, Helen of Troy, HP, IBM, Intel, Microsoft, Philips, Procter & Gamble, Sanmina, Teradata Corp, and TriMas all disclosed the name of at least one country where the minerals in their products originated.

83. Boeing Company, Conflict Minerals Report, June 2, 2014, p. 2, https://www.sec.ov/Archives/edgar/data/12927/000001292714000032/a201312dec31conflict-minera.htm

84. 15 U.S. Code Section 78m (p)(1)(B), http:www.gpo.gov/fdsys/pkg/USCODE-2013-title15/pdf/ USCODE-2013-title15-chap28-sec78m.pdf

85. SEC, Statement on the Effect of the Recent Court of Appeals Decision on the Conflict Minerals Rule, Keith F. Higgins, April 29, 2014, accessed here: http://www.sec.gov/News/PublicStmt/Detail/PublicStmt/1370541681994#.VLdJXSvF-So

86. Bone Zone, "Conflict Minerals Due Diligence: Strategies for a Successful Second Filing," Hannah Cocoran, January 13, 2015, http://www.bonezonepub.com/component/content/article/1125-conflict-minerals-due-diligence-strategies-for-a-successful-second-filing-

87. Boeing Company, "Statement of Benedict S. Cohen," comment to the SEC, October 18, 2011, p. 2, http://www.sec.gov/comments/s7-40-10/s74010-436.pdf. See also NAM, "Re: SEC Initiatives under the Dodd-Frank Act – Special Disclosures Section 1502 (Conflict Minerals) File Number S7-40-10," comment to the SEC, November 1, 2011, p. 1-4, http://www.sec.gov/comments/s7-40-10/s74010-384.pdf

88. All quotes from Green Research, 2012, see above. The study was sponsored by Global Witness and conducted independently by Green Research.

89. Tulane University Payson Center, "Dodd Frank Section 1502: Post-Filing Survey 2014," Chris Bayer, Ph.D, October 2014, http://www.payson.tulane.edu/welcome-tulanes-dodd-frank-section-1502-post-filing-survey-2014-presentation

90. Executive Order 13671 of July 8, 2014, "Taking Additional Steps to Address the National Emergency With Respect to the Conflict in the Democratic Republic of the Congo," see Federal Register, Vol. 79, No. 132, http://www.treasury.gov/resource-center/sanctions/Programs/Documents/13671.pdf

91. Human Rights Watch, "DR Congo: Wanted Rebel's Troops Instill Fear," January 6, 2015, http://www.hrw.org/news/2015/01/06/dr-congo-wanted-rebel-s-troops-instill-fear

92. Global Witness, "Conflict gold sold on international markets despite sector clean up says new UN report," January 20, 2015, http://www.globalwitness.org/library/conflict-gold-sold-international-markets-despite-sector-clean-says-new-un-report

93. European Commission, "Proposal For A Regulation Of The European Parliament And Of The Council: Setting Up a Union System for Supply Chain Due Diligence Self-Certification of Responsible Importers of Tin, Tantalum and Tungsten, Their Ores, and Gold Originating in Conflict-Affected and High-Risk Areas" March 5, 2014, http://trade.ec.europa.eu/doclib/docs/2014/march/tradoc_152227.pdf

94. CCCMC, "Guidelines for Social Responsibility in Outbound Mining Investments," http://www.globalwitness.org/sites/default/files/library/CCCMC%20Guidelines%20for%20Social%20Resposibility%20in%20Outbound%20Mining%20Investments%20Oct%202014%20CH-EN.pdf. See also Global Witness, "Tackling conflict minerals – How a new Chinese initiative can address Chinese companies' risks," October 2014, http://www.globalwitness.org/sites/default/files/library/GW%20Tackling%20conflict%20minerals%202014-10%20lr.pdf

95. International Conference on the Great Lakes Region (ICGLR), "Regional Initiative against the Illegal Exploitation of Natural Resources (RINR)," http://www.icglr.org/index.php/en/natural-resources. Lusaka Declaration of the ICGLR Special Summit to Fight Illegal Exploitation of Natural Resources in the Great Lakes Region, December, 15, 2010, http://www.oecd.org/corporate/mne/47143500.pdf

96. DRC Ministry of Mines, *Arrêté ministériel N.0057.CAB.MIN/MINES/01/2012 du 29 février 2012 portant mise en œuvre du mécanisme régional de certification de la Conférence Internationale sur la Région des Grands-Lacs « CIRGL » en République Démocratique du Congo*, Article 8 « Du devoir de diligence pour des chaines d'approvisionnement responsables en minerais désignes. Tout intervenant de Ia chaine de possession couvrant a l'un ou l'autre niveau de Ia chaine de possession des minéraux désignes est tenu d'exercer le devoir de diligence afin de s'assurer qu'il ne contribue pas a des atteintes aux droits humains ou à des conflits en République Démocratique du Congo. » http://mines-rdc.cd/fr/documents/Arrete_0057_2012.pdf

97. Composition of validation teams is laid out in Article 4 of Arrete Ministeriel 0058/CAB.MIN/MINES/01/2012 23 February 2012 http://mines-rdc.cd/fr/documents/Arrete_0058_2012.pdf

98. Arrête Ministériel no.0058/CAB.MIN/MINES/01/2012/du 23 février 2012 fixant les procédures de qualification et de validation des sites miniers des filières aurifère et stannifère dans les provinces du Katanga, du Maniema, du Nord Kivu, du Sud Kivu et de la province Orientale, http://mines-rdc.cd/fr/documents/Arrete_0058_2012.pdf. Final Report of the UN Group of Experts on the DRC, S/2011/738, December 2, 2011, section 436, http://www.un.org/sc/committees/1533/egroup.shtml

99. Document from Congolese mining authority, 19 November 2014 seen by Global Witness.

100. See Jeroen Cuvelier, Steven Van Bockstael, Koen Vlassenroot & Claude Iguma, "Analyzing the Impact of the Dodd-Frank Act on Congolese Livelihoods," November 2014, p.16 https://s3.amazonaws.com/ssrc-cdn1/crmuploads/new_publication_3/%7B57858126-EF65-E411-9403-005056AB4B80%7D.pdf. See also Global Witness, "Coming Clean: How Supply Chain Controls Can Stop Congo's Mineral Trade Fuelling Conflict," May 2012, p.12, http://www.globalwitness.org/sites/default/files/library/Coming_clean.pdf

101. International Tin Research Institute, "iTSCi Project Overview," https://www.itri.co.uk/index.php?option=com_zoo&task=item&item_id=2192&Itemid=189. See also ITRI, "iTSCi Programme starts activities in third country, Burundi," May 20, 2014, https://www.itri.co.uk/index.php?option=com_zoo&task=item&item_id=3014&Itemid=177. See also ITRI, "iTSCi extends into conflict-free areas of North Kivu, DRC," February 3, 2014, https://www.itri.co.uk/index.php?option=com_zoo&task=item&item_id=2958&Itemid=177. See also ITRI, "Status Report iTSCi Rwanda Field Operations, July-December 2013," 2013, https://www.itri.co.uk/index.php?option=com_mtree&task=att_downloadpercent20&link_id=55084&cf_id=24

102. Final report of the UN Group of Experts on DRC, S/2015/19, January 12, 2015, paragraph 156 http://www.un.org/ga/search/view_doc.asp?symbol=S/2015/19

103. Global Witness field research, North and South Kivu March, April, August and September 2014. See also Ken Matthysen and Andrés Zaragoza Montejano, "Conflict Minerals' initiatives in DR Congo: Perceptions of Local Mining Communities," November 2013, p.3, http://reliefweb.int/sites/reliefweb.int/files/resources/20131112_HU.pdf: "[t]he research further reveals how the socio-economic situation has gradually improved, although not yet to pre-suspension levels, and insecurity has decreased, in less isolated mining areas that are more closely watched by the international community and local stakeholders. More remote areas, on the other hand, which have not yet profited from more concrete initiatives to resuscitate trade, have not witnessed an improvement of the socio-economic or security situation. In many areas, miners have responded to this decline by turning to the informal gold mining sector."

104. See footnote 12

NOTE: All links active as of March 15, 2015.

global witness

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