



Better Sourcing Program

Bukavu, South Kivu Province – Democratic Republic of the Congo (DRC)

March 16, 2017

To: Michael S. Piwowar
Acting Chairman
United States Securities and Exchange Commission
100 F Street, NE
Washington DC 20549

Re: **Comments on the Reconsideration of Conflict Minerals Rule Implementation**

Dear Sir,

We hereby wish to congratulate you for re-opening the debate on the Conflict Minerals Rule.

Our company, **Better Sourcing Program (BSP)**, provides what we call *due diligence services* to participants in the upstream portion of the minerals supply chain. We implement tools and systems designed to verify in-country supply chain compliance with conflict-free standards, and to provide a framework for sustainable procurement of raw materials, including those covered by the Conflict Minerals Rule (3TGs). BSP's general objective is to stimulate the responsible sourcing of minerals from areas where mining could significantly contribute to local development, by ensuring that these minerals meet regulation- and reputation-driven expectations from international buyers and investors.

International transparency expectations extend well beyond the link between minerals and conflict – and include issues such as child labor, working conditions at mine sites, corruption, environment degradation, extreme poverty, etc. These international expectations may derive from voluntary principles or reputational risk mitigation strategies.

Quite naturally, business operators in the United States of America wish to avoid any risk of seeing their procurement associated with some of the practices listed above. Investors in those companies also ought to know what they are funding, and consumers be able to understand the footprint of the products they use. And until recently business operators and investors in America had no answer to brand-threatening, naming and shaming tactics designed to hold manufacturers and end users accountable for the most remote corners of their value chain. Consumers had no way of knowing whether their products were in fact ethically produced or not.

The knee-jerk reaction from international buyers learning about the conflict in Eastern DRC was to turn their back on the issue, and suspend procurement from the region. And we know what happens when responsible buyers disengage: the field opens up to less responsible competitors.

That is the risk Congolese communities faced after a link was established between the DRC's minerals and armed conflicts, and until the SEC interpretation of Dodd Frank section 1502 came about. The SEC Rule identified a framework (the OECD Guidance) for internationally acceptable supply chain due diligence – in essence, the Conflict Minerals Rule facilitated that public relations exercise, guiding US-listed end users in their efforts to maintain access to DRC minerals without exposing their brand to a reputational disaster.

As noted by others in their comments, such guiding principles for conducting due diligence have slowly but surely brought significant benefits. DRC communities and mine operators have learned the hard way that ignoring international requirements was no longer an option. While there remains a lot to work on, local stakeholders have made tremendous efforts to respond to the Rule, and due diligence has made supply chains more transparent, thereby enabling better access to international markets and investment opportunities.

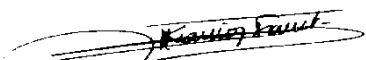
Without the passage of Section 1502 and, above all, the identification of a clear due diligence framework by the SEC, market access terms for mining communities would be even worse than they are today, because responsible US buyers would not be able to identify the right local sources. Congolese operators would be more vulnerable to predatory market forces and actors.

We are thankful that you have re-opened this debate because it is important that the United States keep leading the way towards more efficient and responsible supply chains. Thus, we humbly recommend that the Conflict Minerals Rule (in the sense of requiring application of the OECD due diligence framework) be expanded to more minerals, more responsible procurement topics, and more geographies – at the risk of exposing US companies to the growing impact of supply chain activism.

The United States have brought us camera-equipped mobile phones, modern communication networks, social media platforms and supply chain awareness. Thanks to those tools, no international user of Central African minerals can ignore the struggles of local communities, at the risk of being linked (fairly or not) to more and more shocking imagery uploaded from the field in real time – as has recently been the case in relation to cobalt.¹

It is also the role of the SEC to provide US-listed companies with means to protect their access to resources while safeguarding their reputation and that of their investors – and in particular a broader framework for supply chain due diligence reporting. US-based companies must be able to operate in a common framework, the internationally recognized OECD Due Diligence Guidance, in order to mitigate risks in their supply chains. Regulation built upon that framework can provide a competitive edge to American corporations.

Better regards,



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Benjamin CLAIR
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¹ <http://news.sky.com/video/inside-the-congo-mines-that-exploit-children-10784310>

² Better Sourcing Program Ltd (www.bsp-assurance.com) is a UK-registered company with subsidiaries in the DRC and Rwanda. Development of the Better Sourcing approach to supply chain due diligence has benefited from indirect financial support from the United States Agency for International Development and direct financial support from the Foreign and Commonwealth Office of the United Kingdom, as part of broader efforts to raise transparency and develop local-level accountability across the Central Africa mining and minerals trade sector.