Conflict Minerals Regulations: Background and Legislation

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A (Very) Brief History

- First Congo War 1996
- Second Congo War 1998-2003
- Violence, forced labor, child labor and widespread sexual violence continue
- Mining in minerals-rich eastern DRC finances continuing violence
- Armed groups received $185 million in 2008 from minerals trade
- Human rights groups pressuring electronics companies to solve the problem by rejecting “Conflict Minerals”
- Despite billions spent on peace keeping, governance programs and humanitarian efforts, the conflict continues.
Conflict Mineral Areas in DRC

Generally;
- North Kivu
- South Kivu
- Maniema
Human Rights Groups Profiling the Electronics Industry as the Bad Guy

“The computer, cell phone or other electronic device you're reading this story on might harbor a dirty secret -- it could contain minerals that have fueled brutal and bloody violence in Africa.” ABC News 6/29/10

“Now concern is rising about the minerals that go into common consumer electronics. Could that be a BloodBerry or a Conflict Cell in your pocket?” Fortune Magazine 3/27/09

“It is possible that human beings were abused for the extraction of metals that make up components within my phone.” Enough web site
Key Metals Refined from Conflict Minerals

- Cassiterite (Tin)
- Coltan (Tantalum)
- Wolframite (Tungsten)
- Gold
Share of World Production from the Congo

- Tantalum (Ta): 15-20%
- Tin (Sn): 6-8%
- Tungsten (W): 2-4%
- Gold (Au): <1%
Small Mines Provide Half of Tin Production

2007 mine production, '000t

- China
- Indonesia
- Peru
- Bolivia
- DR Congo
- Brazil
- Rest

Big  Small
## Tantalum Sources

<table>
<thead>
<tr>
<th>Country</th>
<th>Reserves (tons, in 2010)</th>
<th>Production (tons, in 2009)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Australia</td>
<td>40,000 (38.1%)</td>
<td>560 (48.3%)</td>
</tr>
<tr>
<td>Brazil</td>
<td>65,000 (61.9%)</td>
<td>180 (15.5%)</td>
</tr>
<tr>
<td>Canada</td>
<td>NA</td>
<td>40 (3.4%)</td>
</tr>
<tr>
<td>DRC</td>
<td>NA</td>
<td>100 (8.6%)</td>
</tr>
<tr>
<td>Rwanda</td>
<td>NA</td>
<td>100 (8.6%)</td>
</tr>
<tr>
<td><strong>TOTALS</strong></td>
<td><strong>105,000</strong></td>
<td><strong>1,160</strong></td>
</tr>
</tbody>
</table>
Where is Tin Used?

- Solders-electronic
- Tinplate
- Chemicals
- Other
- Solders-industrial
- Brass & Bronze
- Float Glass

Source: Leann Speta, Sun Microsystems, 2009
Where is Tantalum Used?

- Capacitor Powder
- Superalloys
- Sputtering Targets
- Ta Carbide
- Wire
- Mill Products
- Ta Chemicals

Source: Leann Speta, Sun Microsystems, 2009 and Rick Row, 2010
Conflict Metals Requirements included in Financial Reform

Legislation
Legislative History

- Sen Brownback added text from his conflict metals bill, S. 891 to the Senate financial reform Bill as S. 3997
- House and Senate agree on modified combined from Amendment S. 3997 and HR 4128 (McDermott)
- Due to Industry lobbying, the final bill is less burdensome and more practical than originally drafted by Representative McDermott in HR 4128
- Final Text contained in Section 1502 of the The Dodd–Frank Wall Street Reform and Consumer Protection Act (Pub.L. 111-203, H.R. 4173)
Terminology

“Conflict minerals” (§ 1502(e)(4))
Coltan, cassiterite, gold, wolframite, or their derivatives (tantalum, tin, gold, tungsten)

“DRC conflict free minerals” (§ 1502(b))
Product that do not contain minerals that directly or indirectly finance or benefit armed groups in the DRC or adjoining countries
What does § 1502 require?

Source: Rick Row, September 2010
Legislative Requirements

• Included as Section 1502 of the Dodd-Frank Act passed last summer
• Companies whose manufactured goods contain tin, tantalum, tungsten, or gold or other metals refined from conflict minerals must:
  • Report annually to the SEC if the minerals **did** originate from the Congo or adjoining countries
• It is unclear what the obligation will be for companies who cannot determine from where the minerals originated
Reporting Requirements

• Submit a due diligence plan with the company’s annual SEC report that includes:
  – A description of the measures taken by the company to prevent sourcing from the Congo;
  – A description of the products manufactured or contracted to be manufactured that are not conflict free, the facilities used to process the conflict minerals, the country of origin of the conflict minerals, and the efforts to determine the mine or location of origin;
  – An independent third party audit of the company’s due diligence plan; and
  – A certification by the company of its due diligence report
Worse case is massive audit of entire electronics assembly supply chain

- OEM
- EMS
- PCB Mfg
- Components
- Distributors
- Solder Manufacturers
Who is Affected

• Although reporting requirements only apply to companies required to report to the SEC, **it is expected that these requirements will rapidly be passed through the entire supply chain**

• The SEC is required to issue regulations within 270 days of enactment of the legislation
  – SEC not expected to meet this deadline
  – Timing of final rule unclear

• SEC Proposed rule significantly underestimated
  – Breadth of impact
  – Cost of compliance
Why Will § 1502 Be Significant for the Electronics Industry?

- Tracking sources of conflict minerals difficult
  - Competitive information; illegal transactions involved; most sources not subject to U.S. jurisdiction; complex supply chains
- Difficult to assess what must be done as key terms are undefined & little practical guidance
- There is a real underlying social issue, and much public interest in industry’s response
- NGOs locked in on a specific “solution”
  - Confidence in efficacy in resolving a complex problem with deep historic roots
Industry Efforts

• Almost impossible to determine source of tin once it leaves the smelter
• ITRI, which represent tin suppliers, supply chain initiative to verify and trace minerals from the mine to smelter
• Electronics Industry Citizenship Coalition (EICC) and Global eSustainability Initiative (GeSI)
  – Developing smelter audit process
  – Pilot project on supply chain communication
• Phased in Implementation key to Implementing these solutions
IPC Efforts

• ITRI project endorsed by the IPC Solder Products Value Council (SPVC)
• IPC 2-18 Materials Declaration Committee considering additions to IPC 1752A to facilitate data exchange
• IPC filed extensive comments with the SEC
  – Included a detailed member survey on expected costs
• Actively lobbying SEC for a phased-in approach to reduce the burden
• SEC will not meet April 15th deadline for proposing a rule; no information about actual date
IPC Comments

IPC supports the underlying goal of the proposed rule. IPC encourages the SEC to implement the requirements of Section 1502—
- Without unduly burdening U.S. manufacturing industries
- Causing unnecessary disruptions of the minerals trade
- Potential significant and unintended effects
IPC Comments

• IPC recommends the SEC Acknowledge
  – Realities of the situation on the ground in the DRC
  – Complexities of the international minerals trade
  – Broad and diverse global electronics supply chain

• IPC Urges the SEC to
  – Allow companies the flexibility to develop appropriate due diligence measures
  – Recognize ongoing efforts to improve the transparency of the supply chain
  – Address the need to phase-in requirements,
  – Provide the necessary time to implement these measures
IPC Comments

- SEC's analysis significantly underestimates the impact and cost to U.S. Manufacturers
- IPC survey
  - Median due diligence burdens in excess of $65,000 per company in the first year
  - Estimated interconnect industry cost of due diligence is 279 million dollars in the first year alone
  - Ongoing annual costs expected to be around 165 million dollars
  - Additional estimated costs for tracking software, additional staff, training, legal expenses, and third party audits had a median total of $170,000
- Request review of the burdens imposed by this regulation by the Office of Management and Budget (OMB)