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Title: The Shortfalls of U.S. Conflict Minerals Policy

Conflict minerals are defined as raw materials that are extracted in an area of armed conflict with the sale of those materials used to perpetuate the violence. Throughout the 21st century, many experts have made connections between the trade of minerals common in consumer products derived from the Democratic Republic of the Congo(DRC)--such as tin, tantalum, tungsten, and gold--and the perpetuation of armed conflict in the area. In an attempt to curb the violence driven by this trade, the United States Securities and Exchange Commission issued Section 1502 of the Dodd-Frank Act. Under this rule, private organizations that utilize conflict minerals in any area of their supply chain must publicly disclose this information. The incentive behind this regulation is this disclosure could damage the reputation and sales of the products sold by the company, and thus they are incentivized not to utilize conflict minerals in their products.

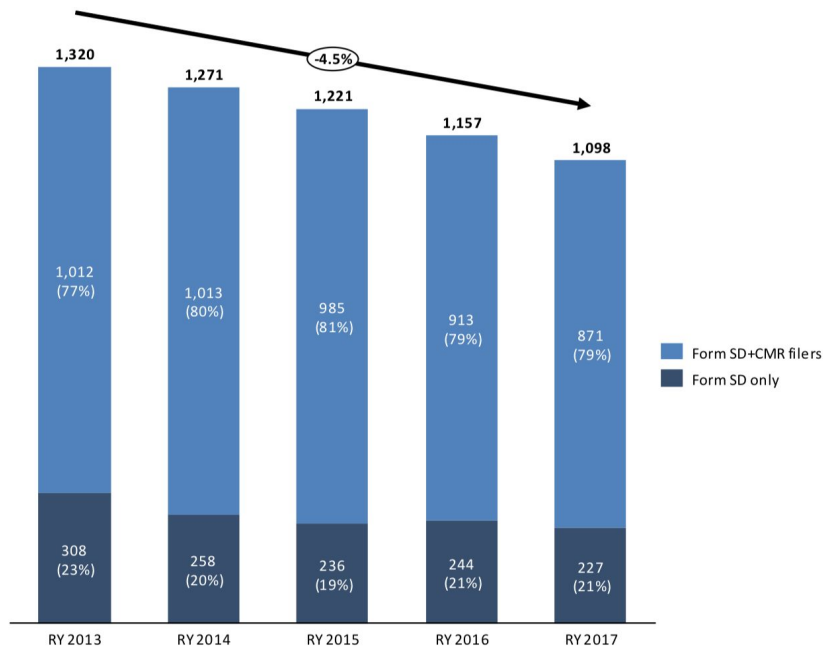


Figure 1.1: Chart showing the amount of companies that have publicly disclosed use of conflict minerals in their supply chain (Development International).

While it initially appeared as if Section 1502 had a beneficial effect on reducing the amount of conflict minerals used in supply chains, issues with the rule grew apparent. In 2016, the element of Section 1502 stating that an organization must report if they are not aware if their products was deemed a violation of the Free Speech Clause of the Constitution which severely weakened the utility of the rule. Despite the finding that this element of Section 1502 was

unconstitutional, there has been a minimal amount of attention given towards the wider reaching implications of maintaining the legislation.

Initially, while the negative effects associated with Section 1502 appeared to be isolated among U.S. businesses due to the high cost of compliance, as well as the unconstitutionality of its various components; it became apparent that the existence of Section 1502 perhaps provided the most harm in the DRC. From data findings and direct reports of the Congolese who live in areas of the country most affected by conflict mineral mining outline that the regulations have caused a decrease in mining activities and have forced citizens to join militias as their only source of income. Further, the opinions of the Congolese were entirely excluded from partaking in discussions regarding the SEC passing the regulation in the first place, thus perpetuating an elitist and colonialist mantra that takes away their sovereignty and right to independently rule.

The continued maintenance of Section 1502 is demonstrative of a passive and one sided solution to a multifaceted and complex issue requiring collaborative resolution between the United States and the Democratic Republic of the Congo. One of the most feasible manners to begin this collaboration is through a modification of foreign aid provided to the DRC. In the past year, the United States Agency for International Development(USAID) has donated more than \$300 million in foreign aid to the DRC. Of this total aid, the Capacity Building for Responsible Minerals Trade (CBRMT) received only \$1,980,308, which stands as the only Congolese organization that directly focuses on sustainable mining activities(USAID). This foreign aid lacks solidified structure and framework, and this form of aid has been found in a multitude of circumstances to cause further damage to the country that is the intended beneficiary(Moyo). Thus in its current status, Section 1502 and the aid provided by the United States provides an inefficient solution of mitigating the conflict mineral issues faced in the DRC.

Through examining the current manner in which the United States addresses conflict mineral legislation and policy, it reveals an inadequacy in the feasibility of achieving the policy's initial goals. Granted, while it must be stated that Section 1502 deserves a degree of commendments for recognizing the issue of conflict mineral trade and bringing it to the forefront of the business world, it has become a relic is in need of a replacement. In removing Section 1502 in place of a more comprehensive aid solutions regarding conflict minerals trade is a necessary step forward in meeting these goals.

Bibliography/Work Cited

Development International. Dodd Frank Section 1502 Filing Status RY2017
https://docs.wixstatic.com/ugd/f0f801_5c0c51ac847349f18b03f842ae41343c.pdf

“FAE: Data Query.” *FAE: Dashboard*, USAID,
explorer.usaid.gov/query?country_name=Congo(Kinshasa)&fiscal_year=2018&transaction_type_name=Obligations.

Moyo, Dambisa. *Dead Aid Why Aid Makes Things Worse and How There Is Another Way for Africa*. Penguin Books, 2010.