



# CONFLICT-FREE RESPONSIBILITY PRACTICE

Brandeis University

*Portfolio*

STAND Chapter

**January 2015**

# Introduction

We are students from Brandeis University representing the Students STAND Against Genocide and the Enough Project. Through this report we want to communicate what we see as an opportunity for Brandeis University to take the lead and become one of the first schools in the Northeast to pass a resolution declaring its support to electronics companies that take measures to be conflict-free.

Through the estimated \$4 million Brandeis spends on electronics annually, we could be funding violence in the Democratic Republic of Congo inadvertently. In the proposal that follows, we recommend a change in the Brandeis procurement policy to incorporate companies' efforts to be conflict-free as a serious consideration for engaging in business.



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# **BRANDEIS UNIVERSITY**

# **CONFLICT-FREE PRACTICE PROPOSAL**

# Proposal for the Conflict-Free Responsibility Practice

*Brandeis University*  
STAND Chapter  
January 2015

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## **Executive Summary**

Conflict minerals procured by companies in the electronics sector are a primary source of funding for armed groups in the Democratic Republic of Congo (DRC) and are contributing to the ongoing violence in the country's eastern region. In an effort to use university leverage to encourage responsible mineral sourcing in conflict zones, STAND and cosponsors propose to the Office of Procurement (Procurement) a "conflict-free" responsibility practice for Brandeis University.

The proposal calls for the distribution of questionnaires to Brandeis electronics suppliers and vendors, to be completed as part of the annual reporting process. The questionnaire contains questions designed to determine how well a supplier or vendor is keeping up with emerging industry standards to improve transparency and accountability in the mining and refinement of conflict minerals.

An overview of industry standards touched upon in the questionnaire can be found below. The questionnaire can be found in Appendix A. The sample conflict-free resolution can be found in Appendix B. The outline for following up with companies can be found in Appendix C.

## **Purpose of Questionnaire**

STAND and cosponsors propose a questionnaire on corporate measures to ensure conflict-free responsibility that serves two primary purposes:

- (1) To indicate to current and potential electronics suppliers and vendors that Brandeis is aware of the role of conflict minerals in perpetuating the ongoing conflict in the DRC and supports electronics sector efforts to remedy the situation through the improvement of transparency and accountability in the mining and refinement of conflict minerals;
- (2) To inform electronics suppliers and vendors of emerging industry standards for due diligence related to conflict minerals and to encourage the adoption of these standards.

In issuing such a questionnaire, Brandeis will join NGOs, industry leaders, and many other colleges and universities in calling for an industry-wide implementation of socially responsible practices related to the use of conflict minerals in electronics products. By including this questionnaire among other standard documents exchanged with the supplier, Brandeis will contribute to the normalization and widespread adoption of these practices.

## **Overview of Industry Standards**

There are a variety of company compliance practices which pertain to the improvement of transparency and accountability in the mining and refining of conflict minerals originating in the DRC. We summarize here the practices referenced in the questionnaire. The full questionnaire can be found in Appendix A.

Tracing and auditing mineral supply chains of companies that manufacture products which may contain conflict minerals introduces transparency into the electronics sector and conflict mineral trade. Tracing involves the determination of the precise sources of the minerals/metals used in a product; audits, conducted by a credited third party, examine a company's mineral supply chain to ensure that minerals are not sourced from conflict mines and that no illegal taxes/bribes are paid to armed groups in the DRC. The results of these processes should be made public to ensure accountability. As of this year, companies manufacturing products that use minerals from the DRC will be [legally required](#) to report on their mineral supply chains to the U.S. Securities and Exchange Commission and to the public.

Read more about the processes of tracing and auditing in the Enough Project's 2012 Company Rankings report:

<http://www.enoughproject.org/files/CorporateRankings2012.pdf>.<sup>1</sup>

Title XV of the Dodd-Frank Wall Street Reform and Consumer Protection Act contains several specialized disclosure provisions, including Section 1502 which requires companies to disclose annually whether any conflict minerals are necessary for their products and what measures are being taken to exercise due diligence on the source and chain of custody of these minerals. On August 22, 2012, the U.S. Securities and Exchange Commission (SEC) [adopted a final rule](#) on conflict minerals, requiring companies to disclose use of minerals that originated in the DRC or a neighboring country and to report on measures taken to exercise due diligence, which should include an independent private sector audit of the company's supply chain. Companies must comply with the final rule for the calendar year beginning January 1, 2013, with the first reports due May 31, 2014.

The final SEC rule on Section 1502 can be found at:

<http://www.sec.gov/rules/final/2012/34-67716.pdf>.

The full text of the Dodd-Frank Act can be found at:

<http://www.sec.gov/about/laws/wallstreetreform-cpa.pdf>.

Certifying a clean trade in the DRC is an essential aspect of ending violence and ensuring that mineral resources extracted from the DRC can benefit communities instead of warlords. Boycotting DRC-sourced minerals is not a realistic solution: it will not serve to alleviate the poor working conditions of miners working in the DRC, or to stem the flow of conflict minerals from the conflict region, as large quantities of these minerals are already [smuggled into neighboring countries](#) before going on the market. A comprehensive solution must focus on the development of an in-region mineral certification system that enables the traceability and certification of minerals mined in the DRC and includes independent monitoring for compliance with industry standards.

The Conflict-Free Smelter (CFS) Program is a voluntary program, managed by the [Electronic Industry Citizenship Coalition](#) (EICC) and the [Global e-Sustainability Initiative](#) (GeSI), in which an independent third party evaluates a smelter's procurement activities and determines if the smelter demonstrated that all the materials they processed originated from conflict-free sources. The program aims to enable companies to source conflict-free minerals. Companies that want to source responsibly are encouraged to use the results of the audits for their own company's due diligence program. The CFS assessments cover

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<sup>1</sup> This report is included in the portfolio in Section 4.

smelters processing tin, tungsten, and tantalum—also known as the “3Ts”—and refiners processing gold.

More information on the CFS Program can be found at:

<http://www.eicc.info/CFSPProgram.shtml>.

The Conflict-Free Smelter Program Compliant Smelter list can be found at:

<http://www.conflictreesmelter.org/>.

*The Public-Private Alliance for Responsible Minerals Trade (PPA)* is a joint effort of the U.S. Department of State, the U.S. Agency for International Development, the International Conference of the Great Lakes Region, non-governmental organizations, companies and industry associations. The coalition supports conflict-free sourcing, provides credible information resources, and coordinates and engages key actors on conflict-free minerals solutions.

More information on PPA can be found at:

<http://www.resolv.org/site-ppa/>.

A list of participants and membership requirements can be found at:

<http://www.resolv.org/site-ppa/participation/>.

*The Organization for Economic Co-operation and Development (OECD) Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas* provides detailed recommendations to help companies respect human rights and avoid contributing to conflict through their mineral purchasing decisions and practices. The Due Diligence Guidance is for use by any company potentially sourcing minerals or metals from conflict-affected and high-risk areas.

Full text of the Guidance can be found at:

<http://www.oecd.org/daf/inv/mne/GuidanceEdition2.pdf>.

A simplified version of the Guidance can be found at:

[http://www.oecd.org/daf/inv/mne/EasytoUseGuide\\_English.pdf](http://www.oecd.org/daf/inv/mne/EasytoUseGuide_English.pdf).

*The OECD “3Ts” pilot implementation program for the Due Diligence Guidance* is a collaboration between the OECD, the International Conference on the Great Lakes Region (ICGLR), the UN Group of Experts on the DRC and over 100 different companies and industry associations to implement the Guidance and its 3Ts Supplement for companies sourcing minerals from Africa’s Great Lakes Region. Participating companies have demonstrated how they perform supply chain due diligence through a peer learning process intended to help them meet reporting obligations and the expectations of managers, customers, regulators and the public.

For more information and implementation reports, visit:

<http://www.oecd.org/corporate/mne/implementingtheguidance.htm>.

**Appendix A**  
**Conflict Mineral Free Responsibility Questionnaire**  
**For Suppliers and Vendors of Brandeis University**

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*Brandeis University* is aware of the role played by conflict minerals in perpetuating the ongoing conflict in the Democratic Republic of Congo (DRC). Conflict minerals—largely in the form of tin, tungsten, tantalum, and gold—are a lucrative source of funding for armed groups in the DRC. *Brandeis* supports electronics sector efforts to remedy the situation through the improvement of transparency and accountability in the mining and refinement of conflict minerals. The aim of this questionnaire is to determine how *Brandeis* suppliers and vendors are keeping up with emerging industry standards.

Please find the live questionnaire at this Google Form: <http://goo.gl/forms/mSvX8kHSQ0>

In August 2012, the U.S. Securities and Exchange Commission (SEC) adopted a rule pursuant to Section 1502 of the Dodd-Frank Wall Street Reform and Consumer Protection Act relating to the use of conflict minerals.

It states that persons are to “disclose annually whether any conflict minerals that are necessary to the functionality or production of a product...originated in the Democratic Republic of the Congo...and, if so, to provide a report describing...the measures taken to exercise due diligence on the source and chain of custody of those minerals, which must include an independent private sector audit of the report that is certified by the person filing the report.” (sec.gov)

1. Does the company have a policy on handling potential conflict minerals in its supply chain?
  - a. Yes
  - b. No
  - c. Other
2. If “Yes,” please provide a hyperlink.
3. Has the company traced and published its suppliers back to the smelter stage of its supply chain?
  - a. Yes
  - b. No
  - c. Other
4. If “Yes,” please provide a hyperlink to the published information.
5. Is the company using only independently audited conflict-free smelters?
6. Is the company collaborating with an organization for best practices in cleaning its supply chain? (These include, but are not limited to, Electronics Industry Citizenship Coalition’s conflict-free smelter program, the U.S. State Department’s Public-Private Alliance (PPA) addressing conflict minerals, the Enough Project, Global Witness, Pact, Jewish World Watch and the Responsible Sourcing Network, etc.)
  - a. Yes
  - b. No
  - c. Other
7. If “Yes,” please provide the name of the organization.
8. If company answered “No,” to the questions above, does the company have plans to develop a policy for compliance, to trace the minerals in its supply chain, or to collaborate with organizations for responsible practices?

## Appendix B Draft Resolution

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Whereas, *Brandeis University* has declared its commitment to human rights and social justice in its governance documents and policies and has taken affirmative steps throughout its history to promote these values; and

Whereas, the United States Senate and the House of Representatives have found that armed groups bear responsibility for massive atrocities in the eastern Congo; and

Whereas, legislation signed into law (Section 1502 of the Dodd-Frank Wall Street Reform Act of 2010) requires that companies submit an annual report to the Securities and Exchange Commission disclosing whether their products contain gold, tin, tantalum, or tungsten from the Congo or nearby areas; and

Whereas, the International Rescue Committee has found more than 5.4 million civilians have been killed from conflict-related causes – which include malnutrition, disease and famine – and countless more remain at risk as a consequence of attacks conducted by armed groups in eastern Congo; and

Whereas the U.N. has urged the international community to weaken the aforementioned armed groups, and to cooperate with a U.N. peacekeeping force authorized under U.N. Security Council Resolution 1291; and

Whereas, the armed groups generate hundreds of millions of dollars each year by trading in conflict minerals; and

Whereas, *Brandeis University* spends an estimated \$4 million<sup>2</sup> per year on electronics products and has significant investments in companies which use conflict minerals from Democratic Republic of Congo in their supply chains;

**Therefore Be It Resolved that** *Brandeis University* will change its procurement policy to consider whether certain electronic products contain conflict minerals in future purchasing decisions and, when available, will favor companies that work towards producing verifiably conflict-free products that contain minerals from eastern Congo.

Be it further resolved that we define those certain electronic products to be the following: (1) computers, (2) laptops, (3) printers, (4) copiers, (5) scanners, and (6) servers.

Be it further resolved that *Brandeis University* will form a conflict-free mineral committee whose members will be responsible for the implementation of a policy favoring conflict-free electronics companies

Be it further resolved that *Brandeis University* calls on electronic companies and other industries to implement the necessary steps to remove conflict minerals from their supply chain.

Be it further resolved that *Brandeis University* calls on US executive leadership in helping to establish an international certification system for minerals coming from Central Africa to ensure they are not contributing to conflict.

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<sup>2</sup> This estimate is based on the Brandeis IRS 990 form from 2011: <http://www.eri-nonprofit-salaries.com/?FuseAction=NPO.Summary&EIN=042103552&BMF=1&CoBrandid=0&Syndicate=No>.

## Appendix C

### Educating Companies

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The purpose of the educational appendix is to ensure that companies who (1) do not respond to the questions posed in Appendix A within a period of one month, or (2) respond with limited or unsatisfactory steps toward a conflict-free policy compliance, have the opportunity to learn about the conflict-free mineral standards which Brandeis is favoring.

We propose a follow-up contact be made with such companies by Procurement to provide the following resources:

1. A copy of this proposal
2. A copy of the University's public statement favoring conflict-free mineral practices issued by Brandeis
3. The research report by the Enough Project , "[The SEC's Final Rule on Conflict Minerals: Reporting Requirements for Companies](#)" published August 2012, detailing the steps required for implementation of Dodd Frank Section 1502
4. The research report by the Enough Project, "[Expectations for Companies' Conflict Minerals Reporting](#)" published in September 2013, clarifying the legal obligations of companies pursuant to Dodd-Frank Section 1502
5. The opportunity to revise their responses to our questionnaire with an addendum including the steps they will take to change their policy
6. The opportunity to receive an educational presentation led by the Brandeis Students STAND Against Genocide chapter



# QUICK FACTS ABOUT CONFLICT MINERALS

# Eastern Congo (DRC): Africa's Forgotten Conflict



**STAND**  
The Student Led Division of  
**GENOCIDE INTERVENTION**

## Glossary of terms:

### The Congolese Army (FARDC):

Composed of poorly trained, frequently unpaid soldiers, and responsible for widespread human rights violations. The FARDC has been accused of collaboration with the FDLR, in violation of international agreements signed by the Congolese government.

### Congrès national pour la défense du peuple (CNDP):

An armed group led by General Nkunda that claims to defend eastern Congo's Tutsi population. Indiscriminately kills, rapes, and severely injures non-combatant civilians, and continues to fight FARDC in violation of a ceasefire agreement. Though they are still operating separately in some areas, the CNDP was integrated into the FARDC in 2009 after Nkunda's arrest by the Rwandan government.

### Democratic Liberation Forces of Rwanda (FDLR):

Composed of former Rwandan Hutu militiamen and Interahamwe génocidaires. FDLR forces commit widespread atrocities in Tutsi and non-Hutu majority areas.

MONUC: UN mission in the DRC. MONUC is the largest UN peacekeeping operation to date, with over 18,000 troops in the theater.

Operation Kimia II: A collaborative assault on the FDLR by MONUC and FARDC, started in January 2009. The assault had a limited effect on the FDLR, though many think it resulted in even more human rights violations committed throughout the Congo.

## Where we are now:

Between 1998 and 2003, the Democratic Republic of Congo (DR Congo) played host to a devastating war that killed an estimated 5 million people, making it the deadliest conflict in terms of civilian casualties since World War II and earning it the nickname "Africa's World War." Today, despite the signing of several peace accords and the presence of the world's largest United Nations peacekeeping force, the violence continues.

Atrocities - in which both the government forces and rebels have been implicated - include rape as a weapon of war, forced displacement of hundreds of thousands, and mass killings of civilians. UN-brokered ceasefires have been consistently violated in renewed clashes between the FARDC, CNDP and FDLR. In January 2009, the UN mission joined government forces in an assault on the FDLR known as Kimia II.

## How we got here:

Tensions in eastern DR Congo arise out of the region's position as a meeting point of the Congolese and Rwandan/Burundian ethnic groups. Interethnic conflicts were historically fought over political power and land rights in the Kivu provinces. A massive influx of refugees into DRC after the 1994 Rwandan genocide exacerbated tensions. The latest war started shortly after the overthrow of long-serving dictator Mobutu Sese Seko. Since 1994, eastern DR Congo has seen periodic warfare that has displaced millions. Despite the signing of several peace accords, rebel groups continue to operate with impunity in the eastern DR Congo.

The DR Congo's vast mineral wealth has also been a contributing factor to violence. Multiple armed groups have fought to gain control of natural resources, including gold, coltan, tungsten and tin; these mines serve to fund and sustain the militias.

## Our Response:

The behavior of the FDLR and the LRA during their retributive attacks in the DR Congo indicate that the targeting of civilians is a primary tactic of both groups. The widespread use of rape by armed actors throughout the DR Congo also indicates the direct targeting of civilians by constituent members of the FDLR, LRA and FARDC. Protracted insecurity has resulted in widespread displacement across the region, with an estimated 2.1 million people displaced in the DR Congo, and 1.1 million displaced in North Kivu alone. The widespread malnutrition and disease caused by the displacement seems to STAND and GI-NET another example of the government's inability to protect its own people.

STAND and GI-NET are working with partners to ensure that United States government policy toward the Democratic Republic of Congo works towards a lasting political solution to the conflict in the DR Congo including actions to protect the human rights of civilians who suffer at the hands of rebel and military perpetrators.

STAND is uniting students around the world to create a permanent constituency to prevent and end genocide and mass atrocities wherever they occur. While the current violence in eastern DRC has not been classified as "genocide," it is characterized by intentional targeting of non-combatant civilians on a nearly unparalleled scale.

**Educate yourself about  
Congo and more at  
[www.standnow.org/learn](http://www.standnow.org/learn)**

# The Conflict Mineral Journey



## 1. Mines

The four core conflict minerals -- tin, tantalum, tungsten (also known as the 3Ts) and gold – are extracted mainly from mines on the eastern border of the Democratic Republic of Congo. Many of the mines are currently controlled by armed groups who illegally "tax" miners and take advantage of local laborers for whom the working conditions are abysmal and the average pay is \$1-\$5 a day.

*Companies, including Intel, in cooperation with NGOs and governments, are supporting a "bag and tag" system that identifies the minerals extracted from conflict-free<sup>1</sup> mines and mitigates risk of tampering as they move downstream through the supply chain. At the smelter, the tags are then "turned back in" providing verification of the ore's conflict-free origin.*



## 2. Trading & Transit

After the minerals are mined, they are assessed and sorted at local trading houses, processed, bought and sold via exporters, and transported through various transit countries. Unfortunately, here too the armed groups and even governments can exert their influence and reap profits since lax documentation and verbal assurances of origin remain the norm. The "bag and tag" system and on-going efforts to require stricter documentation and oversight attesting to the conflict-free origins of the material are helping but much remains to be done.



## 3. Smelters & Refiners

Found mainly in Asia and the Middle East, smelters and refiners can chemically process like materials from conflicted areas as well as from other sources in large furnaces. Since materials from these different sources can be mixed together, prior to processing, the upstream origin of the ore is verified to determine which minerals are indeed conflict-free. This step is key to the auditing process due to the relatively stable and manageable number of smelters/refiners and the ability to work cooperatively with these enterprises.

*Through audit programs driven by Intel and other organizations, smelters are held responsible for documenting the origins of each mineral and accepting minerals exclusively from conflict-free mines.*



## 4. Manufacturers

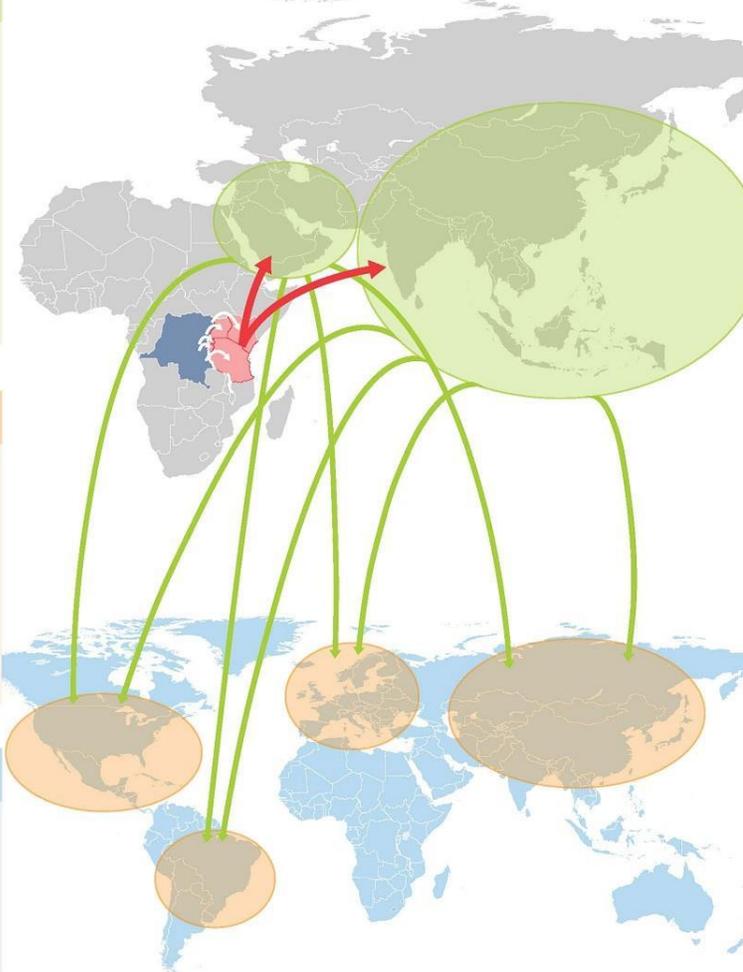
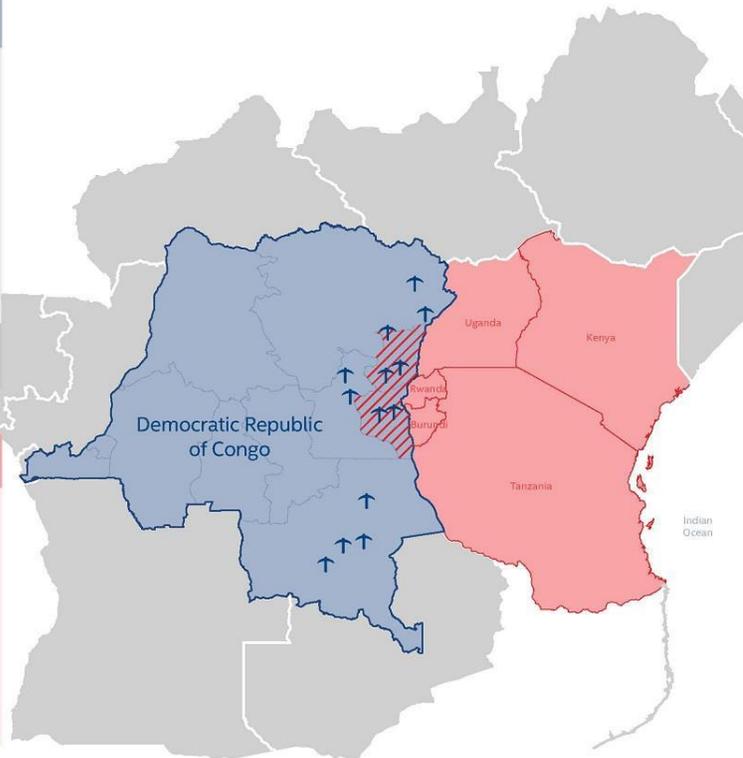
The electronics industry is a large consumer of minerals from the Eastern Congo. By the time resources arrive at manufacturers, they are processed metals ready to be placed inside popular consumer electronics like phones and computers, as well as a broad range of things we rely on everyday such as cars, planes, lighting and jewelry.

*Intel is the first electronics brand to offer microprocessors made with materials from smelters validated as DRC conflict-free<sup>2</sup>. Taking this lead is an important first step in providing a model for other consumer electronics companies to join in the pursuit to be conflict-free.*



## 5. Consumers

The last step in the supply chain is you: people around the world who buy and use products whose functions depend on metals like the 3T's and gold. Knowing the realities of conflict minerals, you have the opportunity to spread awareness around the issue until a commitment to conflict-free sourcing is standard in producing and purchasing mineral-based goods.



<sup>1</sup>Conflict-free<sup>1</sup> means "DRC conflict free", which is defined by the US Securities and Exchange Commission rules to mean products that do not contain conflict minerals (tin, tantalum, tungsten and/or gold) that directly or indirectly finance or benefit armed groups in the Democratic Republic of the Congo (DRC) or adjoining countries.

<sup>2</sup>Intel has manufactured the world's first commercially available, mass produced "conflict-free" processors.

Information from The Enough Project and Intel. Icons by Ben Rex Fumeaux, Gerardo Martín-Martínez, Andrew J. Young, Berkay Sargin from The Noun Project. Maps from Vector Free Maps.com





# COMPANY RANKINGS



# Taking Conflict Out of Consumer Gadgets

Company Rankings on Conflict Minerals 2012

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Sasha Lezhnev and Alex Hellmuth

August 2012



**enough**

The project to end genocide and crimes against humanity

# Taking Conflict Out of Consumer Gadgets

Company Rankings on Conflict Minerals 2012

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Sasha Lezhnev and Alexandra Hellmuth

August 2012

**ON THE COVER:** Tin ore from Walikale, the minerals capital of eastern Congo. February 2012.

SASHA LEZHNEV/ENOUGH PROJECT

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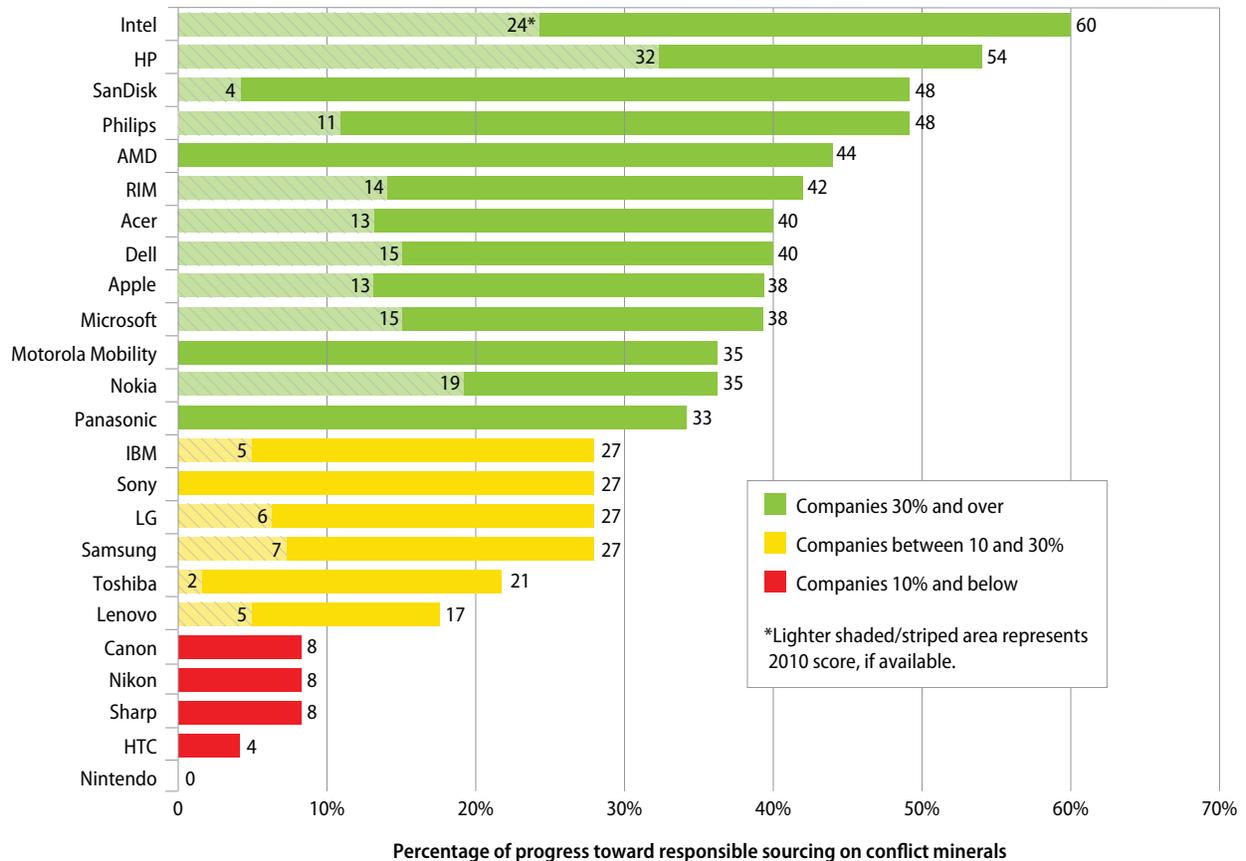
## Introduction and summary

Leading electronics companies are making progress in eliminating conflict minerals from their supply chains, but still cannot label their products as being conflict free. Since Enough's last corporate rankings report on conflict minerals in December 2010, a majority of leading consumer electronics companies have moved ahead in addressing conflict minerals in their supply chains—spurred by the conflict minerals provision in the Dodd-Frank Wall Street Reform and Consumer Protection Act and growing consumer activism, particularly on college campuses. Most firms have improved their scores from the 2010 rankings, but some laggards still remain.

In particular, four leading companies—Intel, Motorola Solutions, HP, and Apple—have been pioneers of progress. These firms have moved forward to develop solutions despite delays in the legislative rule-making process by the U.S. Securities and Exchange Commission, or SEC—an excuse that many other companies have used to explain their lack of significant action. These leading companies have developed conflict minerals programs that have paved the way for other companies to follow. These include a smelter auditing program and an aid project for lagging smelters, direct sourcing and aid projects to help Congo develop a clean minerals trade, and tracing projects to dig deeply into their supply chains to identify precise numbers of smelters. Several other companies—SanDisk, Philips, Sony, Panasonic, RIM, and AMD, in particular—have significantly improved their efforts by surveying their suppliers, piloting due diligence, and joining the smelter audit program.

At the other end of the spectrum, laggards are also standing out due to lack of progress and communication. For example, despite growing public awareness about this issue and significant industry movement, Nintendo has made no known effort to trace or audit its supply chain. Sharp, HTC, Nikon, and Canon are taking initial steps to join industry efforts, but their progress remains far behind industry leaders. Additionally, other industries that use conflict minerals—automotive, jewelry, mining, and industrial machinery—are finally taking initial steps to tackle the problem because of the legislation, but remain far behind the consumer electronics firms.

## Electronics companies ranked by progress on conflict minerals



### Areas of progress:

The majority of electronics companies surveyed have made progress in three main areas.

- Tracing:** Most major electronics companies have traced further along their supply chains to find the sources of their minerals. Starting with Apple, seven firms have now publicly identified the number of smelters involved in their supply chains and nearly all consumer electronics companies are undertaking similar mapping projects.
- Auditing:** Many more smelters are now being audited by third-party auditors through the industrywide Conflict-Free Smelter, or CFS, program. Twenty smelters have already passed the audits, including the majority of tantalum smelters and two Chinese smelters.<sup>1</sup>
- Certification:** A group of companies is starting to help Congo develop a clean minerals trade that helps communities. Seven end-user companies are sourcing from conflict-free mines in Congo, and 16 electronics companies have joined the Public Private

Alliance for Responsible Minerals Trade, or PPA. The PPA is a partnership created by the U.S. government, NGOs, and corporate partners to support the development of a clean-minerals supply chain from Congo and the surrounding region. Motorola Solutions, Intel, and HP also helped get the smelter-audit program to accept conflict-free minerals from Congo and the region that are certified by a regional government body. This means that greater amounts of clean minerals from Congo will go into electronics products next year as mines begin to be certified.

These steps have had an effect on the ongoing conflict in Congo, as armed groups are currently only able to generate approximately 35 percent of what they made from the trade in tin, tantalum, and tungsten, or 3 Ts, two years ago.<sup>2</sup> Conflict tin, a trade susceptible to illegal smuggling through Rwanda and previously worth over \$115 million per year to armed groups, has become increasingly difficult to sell due to audits that now recognize the physical differences between Congo's and Rwanda's tin—making the Congolese material difficult to relabel as Rwandan.<sup>3</sup>

Despite this progress, gold smuggling remains a major problem and the new Rwandan-backed M23 rebel group is creating instability. But tech company action has been at the center of the long-term progress in creating solutions within mineral supply chains, as the electronics audit program only accepts minerals that are fully traced back to their mines of origin and are conflict-free, i.e. excluding conflict minerals.

While companies engaged in finding solutions should be recognized for their efforts, there are still significant gaps where improvement in conflict mineral policies can be made.

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### Five main gaps:

- **Ensuring that “conflict free” is not Congo free:** Companies that use the 3 Ts and gold in their products should strive to invest in a way that creates shared value for both companies and communities. A handful of companies are helping Congo develop a clean trade, but some companies are taking a hands-off approach to instruct their suppliers to not buy minerals from Congo and the region. This approach helps cut off armed groups but leaves mining communities in Congo behind. In order to accomplish both goals, more firms should join the Public-Private Alliance, or PPA, invest in projects to source clean minerals that help communities in eastern Congo where it is safe to do so, and support livelihood projects to help mining communities.
- **Buying from conflict-free smelters:** For smelter audits to have a meaningful impact, companies should require their suppliers to only purchase from conflict-free smelters. Otherwise, smelters will have little incentive to source responsibly. Four companies have put such requirements in place but have not begun enforcing them. For example, Apple states its policy in its annual code of conduct: “As the EICC/GeSI initiative

[Electronic Industry Citizenship Coalition's conflict-free smelter audit program] completes smelter audits in tantalum, tin, tungsten, and gold, we will require our suppliers to source from these conflict-free certified smelters." Other companies should adopt similar policies and begin enforcing these policies through audits of their first-tier and other suppliers to only source from conflict-free smelters. There are enough conflict-free tantalum smelters to now begin enforcement on tantalum. By proactively putting in place a policy on this subject and enforcing it, companies can help speed up the audit process and incentivize smelters to take part in and pass the audits.

- **Getting all the smelters audited:** Within the last 18 months, the conflict-free smelter audit program has certified 12 tantalum, two tin, and six gold smelters as conflict free. To date, no tungsten smelters have been designated conflict free. In 2012 Intel, HP, and GE put together a program to help smelters cover audit costs, but more effort is needed. Tech companies and other industry customers should do more outreach directly to smelters.
- **Getting other industries more involved:** Most companies outside the large consumer electronics industry—jewelry, automakers, aerospace, and industrial machinery—are not playing nearly as much of a role in the situation. This is part of the reason for low smelter participation in auditing programs. In order to incentivize more smelters to participate in the audits, more of their customers need to be involved, particularly from these other industries. Companies from the jewelry, automotive, industrial machinery, and aerospace industries should join the CFS audit program, the PPA, and begin direct conflict-free sourcing programs similar to Solutions for Hope to help Congo develop a clean minerals trade.
- **Making certification a process that civil society and governments participate in:** The conflict-free audit program is still mainly run by industry despite the positive step of adding one independent expert onto its oversight committee. In line with other certification regimes like the Fair Labor Association or the Extractive Industries Transparency Initiative, the audit program should be governed by a joint board made up of industry, civil society, and governments. EICC-GeSI should amend the CFS audit review committee to have full and equal multistakeholder participation, similar to the PPA governance board. Expanding control beyond industry would prevent the program from being hamstrung by rules that do not allow the publication of the names of failed smelters for competitive industry reasons.

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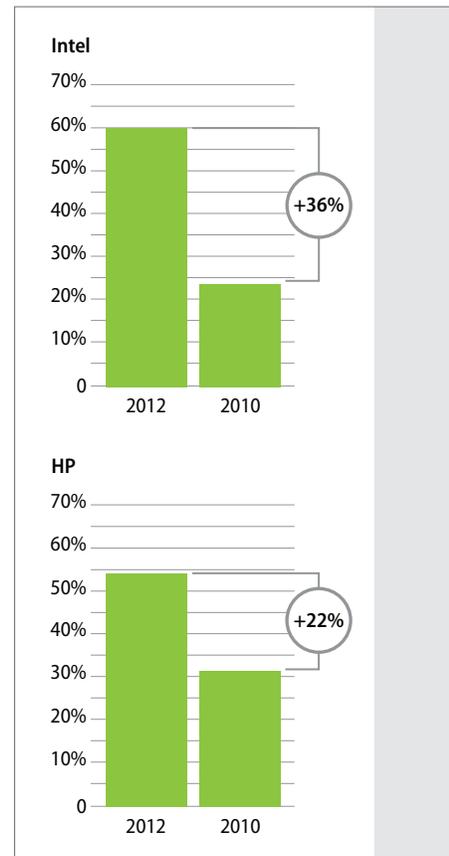
## Outstanding company efforts:

Two companies surveyed stood out ahead of the pack in their extraordinary leadership.

- **Intel** was the first company to publicly commit to making a fully conflict-free product within a deadline—a conflict-free microprocessing chip by 2013. It has taken several other major steps under the leadership of Chief Operating Officer Brian Krzanich. Intel chairs the review committee for the smelter audit program, co-chairs the industry association work group on conflict minerals, has visited 50 smelters, co-founded a program with HP and GE to pay for smelter audits, and has visited eastern Congo to better understand how the company can have a positive impact.
- **HP** has been active at multiple levels. When enough smelters are available it will require its suppliers to use only audited, conflict-free smelters. HP also co-founded the smelters incentive program. HP has been active by helping Congo develop a clean minerals trade, serving on the governance committee of the PPA, purchasing minerals from Congo, traveling to eastern Congo to see local systems firsthand, and being the most active corporate participant in a diplomacy work group on Congo. It also signed onto the multistakeholder group on strong SEC regulations.

Several other companies deserve special mention for notable actions on conflict minerals:

- **Apple** was the first company to publicly identify the number of smelters in its supply chain—175—and require its suppliers to use only audited, conflict-free smelters, when enough are available. It also leads a smelter training program.
- **AMD**, maker of computer chips, has been a leading public policy voice on conflict minerals. AMD testified at the SEC’s roundtable on the rules for the conflict minerals provision in the Dodd-Frank law, co-chairs the multistakeholder group on the SEC rules, and published articles calling for more government action on conflict minerals.
- **Sony** led a partnership to get Japanese electronics companies more involved on conflict minerals, shepherding a process that led Japan’s tech association to sign a memorandum of understanding, or MOU, with the U.S.-based EICC to participate in the smelter audit program.
- **Toshiba, Apple, HP, and Nokia** put new policies in place to require all of their suppliers to use only audited, conflict-free smelters, once enough are available.
- **Nokia, Panasonic, Philips, AMD, HP, and Microsoft** are piloting internationally agreed-upon due diligence guidance on conflict minerals in line with the Organization for Economic Co-operation and Development, or OECD, due diligence model.



- **SanDisk** is the most improved company, being the first company to publish the names of its smelters and begin audits of its suppliers that cover conflict minerals.
- **Acer, Intel, LG, Panasonic, and Philips** also publicly identified the number of smelters in their supply chains, helping transparency.
- **Microsoft, GE, Panasonic, and Motorola Solutions** stood up and issued statements against a lawsuit that the U.S. Chamber of Commerce, a powerful industry lobby group, had threatened against the SEC on its regulations for the Dodd-Frank law on conflict minerals. The lawsuit could effectively overturn the law.
- **Motorola Solutions**, not ranked in our survey because of its decreased size following a company split, has been very active in helping Congo develop a clean minerals trade, co-chairing the industry working group on conflict minerals, pioneering the Solutions for Hope project, and advocating for stronger government action.
- **AMD, Nokia, AT&T, Dell, RIM (Blackberry), GE, Sony, Sprint, HP, Telefonica, Intel, Toshiba, Verizon, and Motorola Solutions** are helping Congo develop a clean minerals trade by joining the Public Private Alliance on Responsible Minerals.
- **Motorola Mobility, HP, Intel, Motorola Solutions, Nokia, RIM (Blackberry), and Bosch** joined the Solutions for Hope program to develop a clean minerals trade in Congo. Component manufacturer **AVX** deserves credit for setting up this program, and component maker **Kemet** has set up a similar program in Katanga.
- **IBM** helped traceability in Congo and Rwanda by donating a database and training for the Congo-Rwanda tracing system called iTSCi.

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### Other industries: Starting work but lagging behind overall

If companies from other industries that use conflict minerals were to be surveyed and ranked using our criteria, the majority would likely earn few to zero points. Enough only ranked large consumer electronics companies because of our extensive engagement with them over the past three years and a basis on which to differentiate their actions. But the involvement of other industries is also important and there has been nascent engagement with the largest companies in six other key sectors: automotive, aerospace, jewelry, mining, industrial machinery, and retail.

With a few exceptions, responses from most companies in these other key industries have thus far been tepid. There are several outstanding issues that must be addressed to more effectively handle the conflict-mineral issue. Based on the passage of the Dodd-Frank legislation, companies and associations in some of these sectors have begun to

take steps to eliminate conflict minerals from their supply chains. However, many of the companies are making similar excuses to the ones that electronics companies made four years ago—that their supply chains are too complex or that it is impossible to tell where the minerals come from. For example, a representative at Kraft Foods said, “[W]hen I started talking to my procurement people about [where conflict minerals may be in Kraft’s products] ... it was getting a bit overwhelming, and I was getting a little bit [sic] hyperventilating when we were going through all of that.”<sup>4</sup> The efforts of Intel and the leading tech companies since 2009 have shattered those excuses and have proven that concrete supply chain action is possible—starting with tracing suppliers back to smelters, auditing smelters, and contributing to certification in Congo and the region.

The following represent notable efforts by companies outside the electronics industry:

- **Ford and GE** are carrying out pilot projects to test the due diligence guidance that was agreed on in a 2010 OECD-led multistakeholder process. Ford and GE have also signed on to the PPA, along with several electronics-component companies.<sup>5</sup> GE co-founded the smelter incentive program with Intel and HP.
- **Boeing, Northrop Grumman, United Technologies, and Lockheed Martin** are piloting the OECD guidance. These companies should publish the steps they have taken to implement the guidance.
- **Signet Jewelers, GE, and the automotive association AIAG** have signed on to the conflict-free smelter audit program. It is a straightforward process for other companies to sign on to the program at [www.conflictreesmelter.org](http://www.conflictreesmelter.org). These companies should publish information on how they plan to use the program, for example requiring suppliers to source from conflict-free smelters.
- **The jewelry association Responsible Jewelry Council** has begun an audit program for jewelers called “Chain-of-Custody Certification.” However, the audits only cover company policies and management systems, rather than going through a jewelers’ actual purchases of gold or other metals to check whether they are from certified refiners and/or conflict-free mines. More work must be done, therefore, to combat the flows of conflict gold.
- **The mining association World Gold Council** has drafted a conflict-free standard that is being piloted by some mining companies but it is not yet finalized.
- **The gold refiners’ association London Bullion Marketing Association** is developing an audit program for gold refiners in coordination with the electronics association smelter audits. The protocol for the audits has not yet been drafted, however, despite the long amount of time that has passed since the passage of Dodd-Frank.

Many more steps remain for these stakeholders to catch-up to the progress of the electronics industry. There must be assurance that smelters are audited, supply chains are traced to smelters, materials are sourced from conflict-free mines in Congo and the region, and the OECD guidance is implemented.

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## Consumer activism and legislation

Much of the progress made by companies on conflict minerals since 2010 is owed to the U.S. legislation passed on conflict minerals as well as the rapid growth of the conflict-free consumer movement. Since it was signed into law by President Barack Obama in July 2010, Section 1502 of the Dodd-Frank Wall Street Reform and Consumer Protection Act has brought the conflict-minerals issue to the attention of executives of the approximately 6,000 companies that will be affected by it.<sup>6</sup> Although its final rules have not yet been issued, the law, in broad terms, requires all companies that use the 3 Ts or gold in their products to trace the origins of these minerals and conduct due diligence, including an audit, if they originate in Congo or surrounding countries. Companies across the board have cited that the law has sped up their actions on this issue, as they trace through their supply chains in preparation for compliance with the legislation.

Consumer activism has also played a significant role in helping move tech companies on conflict minerals over the past three years. Companies ranked in the top and middle tiers have been directly targeted by activists and the leadership of these companies has impacted the entire industry, pushing forward progress on the ground. It is also not a coincidence that no other industry affected by the law has gone as far as the consumer electronics sector in its action on conflict minerals; this is largely due to electronics companies having been the main target for consumer activists.

Over the past three years the conflict-free movement has demanded that companies support federal legislation on conflict minerals and strong rules for the law. Consumer activists at college campuses, faith-based groups, socially responsible investment groups, and other civic associations have also asked companies to publish company policies on this issue, join industry and multistakeholder groups such as the EICC and the PPA, and invest in cleanly sourced minerals from the region that benefit local communities.

Through the passage of conflict-free resolutions at the university, city, and state levels and through direct consumer action, activists have called on companies to assume responsibility for the minerals in their supply chains, and the final products they produce. As a result, certain companies have taken major steps forward and have helped create a framework for a minerals sector in Congo that will benefit communities rather than armed groups.

The delay by the SEC to release rules and regulations for company reporting, as prescribed in Section 1502 of the Dodd-Frank Act, has been a roadblock for progress on the

ground in Congo. But due to targeted consumer pressure, companies have begun to take the necessary steps forward to cleanly source from Congo. As a result of initiatives taken by Motorola Solutions and its consortium—as well as by electronics component manufacturer Kemet—legitimate, conflict-free mining is underway just south of the war-torn Kivu provinces, proving that it can be done in Congo. Following this lead, a consortium of Dutch companies is planning a similar project in South Kivu. Further, activists asked companies to publicly express their support for Section 1502 and against the threatened lawsuit by the U.S. Chamber of Commerce. Since then, four companies have voiced their opposition to the lawsuit threat and called for the swift issuance of rules by the SEC, which announced in July that it will vote on final regulations on August 22. The release of these final rules should result in more significant steps by the industry in the coming months.

The advances made over the past three years demonstrate the ability of electronics companies to set industrywide standards, drive forward progress on the ground, and move other actors—namely the U.S. government—toward prioritizing Congo. The significant movement by companies into the first and second tiers of the rankings shows their interest in showing leadership on issues that the public cares deeply about—again establishing the importance of a conflict-free movement among consumers.

Consumer activism will continue to serve as a motivator for corporate action that demonstrates the market potential for ethical products as well as an effective entry point for a national and international movement dedicated to peace in Congo.

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## Conclusion and recommendations: getting to conflict-free

Despite the progress made in the past year by both governments and industry, a long road still lies ahead. The exploitation of Congo's mineral resources continues to exacerbate conflict and instability on the ground and consumers are still largely in the dark as to whether or not their products are conflict free. It will take a holistic effort by multiple governments and industries to regulate the flow of illegal conflict minerals. The driver of that effort must remain the demand of the conscious consumer.

The solution for creating an accountable and durable system must come from policies driven down through supply chains by responsible industry actors, as well as stakeholder governments working to find solutions towards, peace, stability, and economic development in central Africa. In the coming year there a number of actionable steps industry actors can take to do their part:

- 1. Moving ahead with clean minerals from Congo:** In order to help Congo develop a clean minerals trade more quickly, more firms should join the Public-Private Alliance on Responsible Minerals Trade. Companies should invest in projects similar to “Solutions for Hope” to source clean minerals that help communities in eastern Congo and support livelihood projects to help mining communities.

2. **Ensuring that more smelters get audited:** Electronics companies should do more outreach directly to smelters and other industry customers need to conduct outreach to smelters as well.
3. **Making sure companies are buying from clean smelters:** Companies should proactively require their suppliers to only purchase from conflict-free smelters once enough are available and begin enforcing these policies through audits of their first-tier suppliers.
4. **Getting the other industries on board:** Companies from the jewelry, automotive, industrial machinery, and aerospace industries should join the CFS audit program, the PPA, and begin direct conflict-free sourcing programs similar to Solutions for Hope to help Congo develop a clean minerals trade.
5. **Making conflict-free certification a transparent process:** The industry group EICC-GeSI should amend the Conflict-Free Smelter audit review committee to have full multistakeholder participation made up of industry, civil society, and governments, similar to the PPA governance board or other certification regimes such as the Fair Labor Association or the Extractive Industries Transparency Initiative.
6. **Preventing the legislation from being overturned and fully implement it:** More companies from all industries that use conflict minerals should issue statements making it clear that they do not support the U.S. Chamber of Commerce's threat to sue the Securities and Exchange Commission on the conflict-minerals rules, building on the forward-looking statements from Microsoft, GE, Panasonic, and Motorola Solutions. They should also fully implement the legislation through tracing and auditing programs.

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## Annex: Outline and criteria for scorecard<sup>7</sup>

The conflict-minerals trade from eastern Congo can end through a combination of companies, governments, and consumers taking action to trace, audit, and certify their minerals supply chain. The Enough Project scored electronics companies based upon a set of these criteria, as well as wider actions that would help to break the link between the minerals trade and conflict in Congo. Reasonable timelines are needed to successfully achieve these actions.

The full company responses are available at <http://www.raisehopeforcongo.org/company-rankings/detailed-responses.pdf>.

- **Trace:** Companies must determine the precise sources of the minerals/metals used in their products. Efforts to develop rigorous means of ensuring that the origin and production volume of minerals are transparent are reviewed.
- **Audit:** Companies should have detailed examinations of their mineral supply chains conducted to ensure that a) minerals are not sourced from conflict mines and b) no illegal taxes/bribes are paid to armed groups in Congo. Credible third parties should conduct or verify these audits.
- **Certify:** For consumers to be able to purchase conflict-free electronics made with Congolese minerals, a certification scheme that builds upon the lessons of the Kimberley Process will be required. This would be aimed at setting up conflict-free mines in Congo that help communities. Donor governments and industry should provide financial and technical assistance to galvanize this process.

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## Criteria<sup>8</sup>

1. **Trace:** Has the company traced its suppliers of the 3 T and gold metals, or 3TG?
  - a. Has the company investigated and come to know precisely which companies refine/smelt<sup>9</sup> the company's supply of the 3TG, with third-party verification? (For each metal, half-point for investigation, half-point for verification—total of four points possible)
  - b. Has the company published the smelters it uses for the 3TG? (One point for each metal)
  - c. Has the company visited at least two of its smelters and inquired about the use of conflict minerals within the past year? (Two points possible)

- 2. Audit: Does the company have audits conducted of its suppliers of the 3TG metals to determine mine of origin and chain of custody?** (For each question, one point for each metal)
- Does the company have a stated policy of auditing suppliers of the 3TG metals?
  - Has the company conducted internal audits of the procurement practices of 3TG suppliers down to the level of refiner, at least within the past year?
  - Has the company had third-party audits conducted of 3TG suppliers down to the level of refiner, at least within the past year?
  - Has the company participated in the working group for the Conflict-Free Smelter validation program? (Two points possible)
  - Has the company provided financial support for auditing for 3TG? (Four points for support above \$100,000, two points for support between \$50,000 and \$100,000, one point for support below \$50,000)
  - Has the company developed at least one verifiably conflict-free product, with independently audited supply chains all the way to the point of extraction? (Four points possible here, either yes or no)
- 3. Certify: Has the company taken concrete steps to develop an international certification regime for the 3 T and gold minerals, in order to develop conflict-free mines in Congo?** (see definition of certification, for a clarification)<sup>10</sup> (Two points possible for the first two questions, either yes or no)
- Has the company made public statements in support of certification?
  - Does the company have a stated policy of support for certification?
  - Has the company provided financial support for certification? (Two points for support above \$500,000, 1.5 points for support between \$200,000 and \$500,000, one point for support below \$200,000) Participation in the Public Private Alliance would count for points here. The PPA is a step toward certification but is not a certification, as per the definition.
  - Has the company participated in the process for developing the OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High Risk Areas and did it commit to piloting the guidance? (Two points possible)

**Additional criteria:**

- 4. Stakeholder engagement: Has the company had regular engagement with NGO coalitions on the conflict minerals issue?**
- Has the company met with NGO coalitions regarding inquiries on conflict minerals? (One point possible, yes or no)
  - Has the company held regular, at least bimonthly, communication with NGO coalitions regarding conflict minerals? (One point possible)

- 5. Support for legislation: Has the company publicly supported legislation on conflict minerals?**
- a. Did the company participate in the multistakeholder group of NGOs, companies, and investors to the SEC and sign on to its letters? (Two points possible, yes or no)
  - b. Did the company issue a statement advocating for legislation in Europe on conflict minerals? (Two points possible, yes or no)
  - c. Did the company issue a public statement against the threatened lawsuit against the SEC regulations on conflict minerals by the U.S. Chamber of Commerce? (Two points possible, yes or no)
- 6. Environmental rankings (for informational purposes)**
- a. Greenpeace Green Electronics Ranking
  - b. Newsweek Green Company Rankings

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## Endnotes

- Tantalum:** 1. Exotech Inc. (Florida, United States) 2. F & X (China) 3. Gannon & Scott (Arizona, United States) 4. Global Advanced Metals (formerly known as Cabot Supermetals) Pennsylvania, United States 5. H.C. Starck GmbH (Germany) 6. Hi-Temp (New York, United States) 7. Mitsui Mining & Smelting (Japan) 8. Plansee (Austria) 9. RFH (China) 10. Solikamsk Metal (Russian Federation) 11. Telex (Pennsylvania, United States) 12. Ulba Gold (Kazakhstan). **Gold:** 1. Asahi Pretec Corporation (Japan). 2. Ohio Precious Metals (Ohio, United States) 3. Perth Mint Refinery (Australia) 4. Royal Canadian (Canada) 5. Tanaka Kikinzoku Kogyo K.K. (Japan). **Tin:** 2 smelters (names not yet listed, as there are not yet three).
- See Enough Project, "From Congress to Congo: Turning the tide on conflict minerals, closing loopholes, and empowering miners," forthcoming.
- Ibid.
- Irma Villarreal at Kraft Foods, SEC Roundtable on Section 1502 of the Dodd-Frank Act, October 18, 2011. Full transcript available at <http://www.sec.gov/spotlight/conflict-minerals/conflictmineralsroundtable101811-transcript.txt>
- These include Qualcomm (both OECD and PPA), Foxconn, Alcatel Lucent, Alpha (Cookson), Circuit Connect, Epic Technologies, Flextronics, Foxconn (also in Solutions for Hope), Freescale, KEMET, Oracle, Plansee Group Service GmbH, Siemens AG, Texas Instruments, TriQuint, UNISEM, AIAG (Automotive Industry Action Group), EICC & GeSI (Electronic Industry Citizenship Coalition and Global e-Sustainability Initiative), and IPC (Association Connecting Electronics Industries).
- However, only approximately 1,200 companies will have to file a conflict minerals report, i.e. comply with the rule.
- The full company responses are available at <http://www.raisehopeforcongo.org/company-rankings/detailed-responses.pdf>
- Unless otherwise noted, one point will be awarded for action on each metal in each question. In other words, for criteria 1(a), if a company has investigated and come to know its suppliers for tantalum but not for tin, tungsten, or gold, it will receive one point out of a possible four.
- The term smelter is used here as an overarching term to indicate a metals smelter and/or processing company.
- Certification is understood here as a multistakeholder international process similar to the Kimberley and/or Forest Stewardship Council processes, which would be an international regime to trace, audit, and certify the 3T and gold minerals as being verifiably conflict free.

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Enough is a project of the Center for American Progress to end genocide and crimes against humanity. Founded in 2007, Enough focuses on the crises in Sudan, South Sudan, eastern Congo, and areas affected by the Lord's Resistance Army. Enough conducts intensive field research, develops practical policies to address these crises, and shares sensible tools to empower citizens and groups working for change. To learn more about Enough and what you can do to help, go to [www.enoughproject.org](http://www.enoughproject.org).

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