

THE CONFLICT-MINERALS DISCLOSURE PROVISION OF THE *DODD-FRANK ACT*— NEW U.S. INDUSTRY REQUIREMENTS BUT UNCERTAIN U.S. TRADE IMPACTS

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Armed groups in central Africa, particularly in the Kivu region of the eastern Democratic Republic of the Congo (DRC), have sought control of the extraction and trade of certain minerals over the past decade as ready sources of funding. To suppress funds flowing to such groups, the July-2010 Dodd–Frank Wall Street Reform and Consumer Protection Act (*Dodd-Frank Act*) includes a provision for “Disclosures on Conflict Materials in or Near the Democratic Republic of the Congo” (15 U.S.C. sec. 78m(p)). The Act requires U.S. minerals-consuming industries to trace and publicly report any imports derived from the designated region. Official trade statistics and these reporting requirements give only a partial picture of the degree to which current U.S. sourcing patterns for certain minerals could be impacted by this Act.

Background: Four minerals and their derivatives are designated as “conflict minerals” by the *Dodd-Frank Act*. The derivative metals (not specifically named in the *Act*) are critical raw-material inputs for many high-technology and high-value applications, for which there are few suitable substitutes. Lacking sufficient domestic sources for these minerals and metals, U.S. industry is highly dependent upon imports to meet its domestic consumption needs (table 1).

Table 1: Information about the *Dodd-Frank Act*-designated conflict minerals and their derivatives, 2013

Designated conflict minerals	Derivative metals	Leading downstream consuming sectors	U.S. import reliance ^a	Leading U.S. import sources ^b
Columbite-tantalite (“coltan”)	Niobium	Alloy steels, aerospace alloys	~100%	Brazil (54%), China (8%), Canada (6%), Indonesia (5%), Germany (4%), Kazakhstan (4%), DRC+9 (2%) ^c
	Tantalum	Electronic components	~100%	
Cassiterite	Tin	Anti-corrosion coated steels, eutectic solders	74%	Canada (63%), Peru (11%), Bolivia (6%), Indonesia (6%), DRC+9 (0%)
Gold	Gold	Precious jewelry, electronic components	(^d)	Mexico (24%), Canada (22%), Peru (16%), Colombia (14%), DRC+9 (0%)
Wolframite	Tungsten	Wear-resistant carbide tools, electrodes and filaments, alloy steels, aerospace alloys	43%	Canada (20%), China (15%), Bolivia (14%), Portugal (8%), Spain (7%), Korea (6%), DRC+9 (<1%)

^a Ratio of net import reliance (sum of imports – exports + adjustments to government and industry inventories) to apparent domestic consumption (sum of net import reliance + mine production + scrap recovery).

^b Quantity shares for ores and concentrates, waste and scrap, unwrought, and semi-manufactured forms of the derivative metals.

^c The DRC and its nine adjoining countries (figure 1).

^d Large, unreported private holdings preclude calculating net import reliance for gold.

The *Dodd-Frank Act* designated the **DRC (blue)** and **its nine adjoining countries (cyan)** (DRC+9) as sources of conflict minerals. These nine countries (not specifically named in the *Act*) are: South Sudan (to the north-northeast of the DRC and proceeding clockwise in figure 1), Uganda, Rwanda, Burundi, Tanzania, Zambia, Angola, the Republic of the Congo, and the Central African Republic.

Uncertainties of sourcing and trade linkages: As these minerals occur in forms suitable for hand-tool extraction, they often enter into global commerce after simple processing, and subsequent trading via informal networks into neighboring countries. Having only limited processing capabilities, DRC+9 exports of the designated minerals are predominantly in the forms of ores and concentrates. Available trade statistics suggest that the United States imported only small quantities directly from the DRC+9 countries in 2013

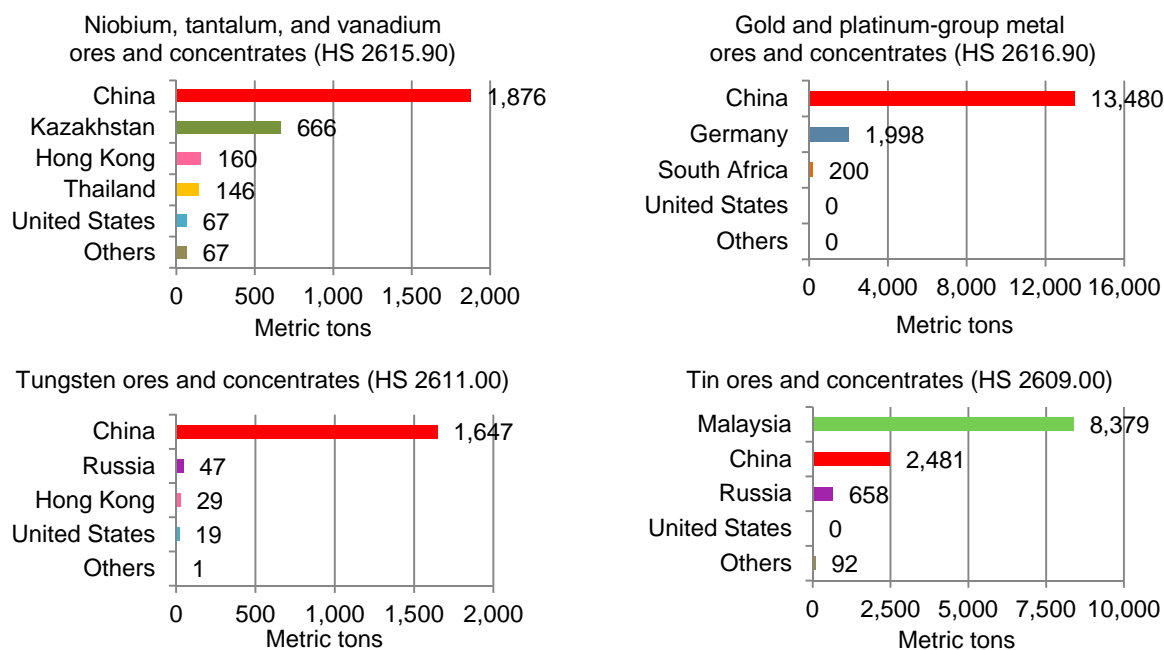
Figure 1: African countries designated as sources of conflict minerals



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(table 1 and figure 2), as the designated minerals were shipped principally to China, Malaysia, and Kazakhstan. However, official trade statistics do not necessarily reflect the ultimate origins of these designated minerals, as much DRC+9 trade occurs outside of official channels. Moreover, multiple processing stages and complex cross-border transaction patterns further impede source-country and supply chain-of-custody tracing.

Figure 2: Leading importers of designated-minerals ores and concentrates from the DRC+9 countries, 2013



Source: GTIS, Global Trade Atlas.

New tracing and reporting requirements for industry: In September 2012, the U.S. Securities and Exchange Commission (SEC) issued its final “Conflict Minerals Rules” under the *Dodd-Frank Act*. On their own initiative ahead of the SEC’s rulemaking, U.S. minerals-consuming companies began tracing their country sources and transaction chains of custody for the designated minerals and derivatives. The SEC rules establish a multi-step assessment and reporting process, which is detailed in a July 29, 2014, SEC fact sheet.¹ Some 1,300 companies reportedly filed for the 2013 calendar year by the early-June 2014 deadline. A consultancy’s preliminary assessment found most of the larger companies’ minerals sources were either not reported or were “DRC conflict indeterminable,” a temporary provision allowed for the first two reporting years.

Outlook: Although trade statistics suggest that the United States is already minimally dependent upon DRC+9 sources for the designated minerals, the full extent of U.S. dependence will become clearer as more definitive conflict-status disclosures are anticipated from the mid-2016 SEC filings for the 2015 calendar year. Moreover, some DRC+9 shipments of ores and concentrates may increasingly shift away from the United States to other countries (e.g., China, Malaysia, Kazakhstan, etc.) without such conflict-minerals disclosure requirements.

Sources: American Metal Market, Congressional Research Service, *Economist*, *Federal Register*, Global Trade Information System (GTIS) Inc., *Metal Bulletin*, Price Waterhouse Cooper LLP, U.S. Department of Commerce, U.S. Geological Survey, U.S. Securities and Exchange Commission (SEC), and *Washington Post*.

¹ SEC, “Fact Sheet, Disclosing the Use of Conflict Minerals,” July 29, 2014, available at <http://www.sec.gov/News/Article/Detail/Article/1365171562058>.