

Demand the Supply



Ranking Consumer Electronics and Jewelry Retail Companies on Their Efforts to Develop Conflict-Free Minerals Supply Chains from Congo

By Annie Callaway | November 2017

CONSUMER ELECTRONICS **JEWELRY RETAIL**

0 5 10 15 20 25 30 35 40 45 50 55 60 65 70 75 80 85 90 95 100 105 110 115 120 125 130

Apple
Alphabet
Google

hp
Microsoft

intel
SIGNET

TIFFANY & CO.

Panasonic

IBM

SONY

JCPenney

TARGET

★macy's

SAMSUNG

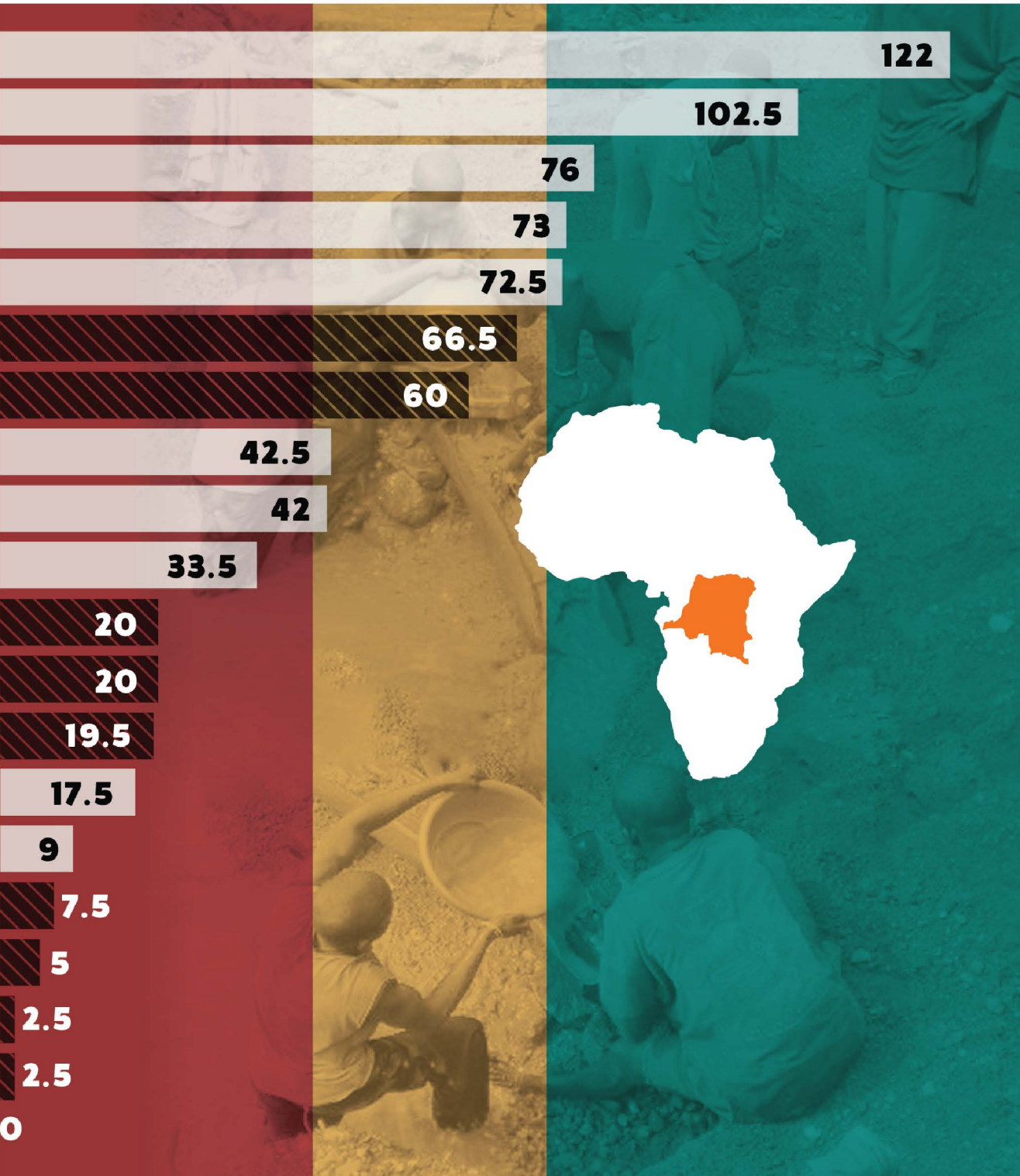
TOSHIBA

COSTCO
WHOLESALE
HELZBERG
DIAMONDS.

sears

Walmart ✱

Neiman Marcus



0 5 10 15 20 25 30 35 40 45 50 55 60 65 70 75 80 85 90 95 100 105 110 115 120 125 130

Rankings in points



Demand the Supply

Ranking Consumer Electronics and Jewelry Retail Companies on Their Efforts to Develop Conflict-Free Minerals Supply Chains from Congo

By Annie Callaway
November 2017

Executive Summary and Introduction

For decades, activists and affected communities in the Democratic Republic of Congo have called attention to the links between their country's minerals and its protracted armed conflicts. To many communities historically impacted by the violence and lawlessness surrounding Congo's gold, tin, tungsten, and tantalum mines, the need for change is clear.

As a result of the unique leverage they have over their supply chains, the multinational companies that profit from Congo's minerals have a central role to play in addressing the links between conflict and mining. And indeed some companies have begun to take ownership and implement this leverage, as evidenced by the positive steps detailed in this report and overall progress in demilitarizing mining areas in eastern Congo. However, critical gaps remain. In tandem with a range of legal and policy interventions, and fueled by sustained consumer demand, companies across industries can continue to use their leverage and resources to incentivize transparency and accountability in the Congolese mining sector and international minerals supply chains.

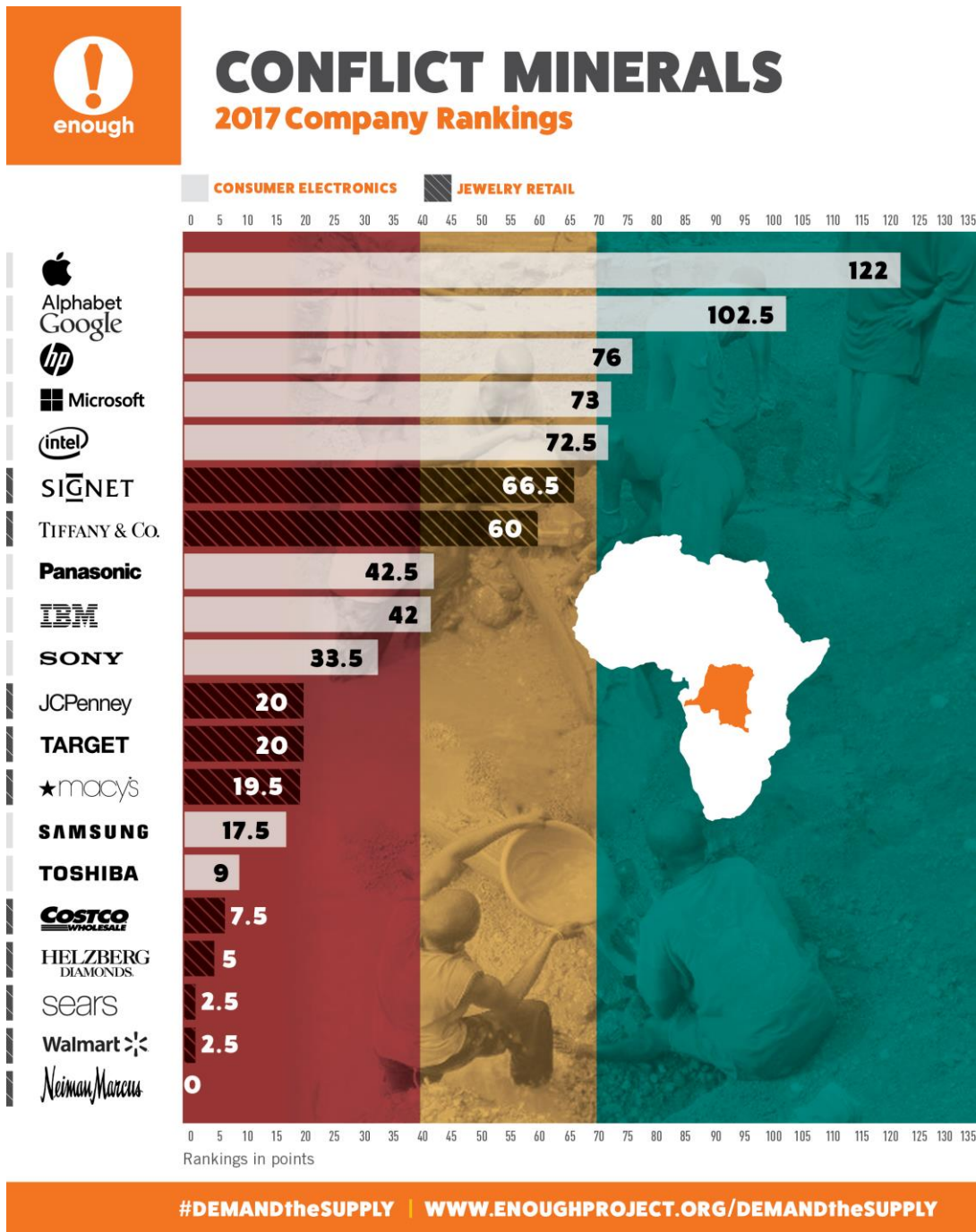
The Enough Project's 2017 conflict minerals company rankings examine 20 of the largest companies, as defined by market capitalization, in two of the industries which consume the most tin, tungsten, tantalum, and gold: consumer electronics and jewelry retail.¹ Although a range of industries use these minerals—often referred to as conflict minerals or 3TG—Enough chose to rank these two industries in particular because they have demonstrated the potential to be catalytic in the development of new policies and

1 [The Enough Project • enoughproject.org](https://enoughproject.org)

Demand the Supply: Ranking Consumer Electronics and Jewelry Retail Companies on Their Efforts to Develop Conflict-Free Minerals Supply Chains from Congo

practices regarding responsible sourcing, and they are also particularly attuned to consumer pressure. These latest rankings acknowledge the steady advances that have been made since Enough conducted its first company rankings in 2010² and expose the considerable and urgent need for more action.

These new rankings indicate that the consumer electronics industry as a whole is more advanced than the jewelry retail sector in corporate efforts to improve supply chain transparency and opportunities for conflict-free sourcing from Central Africa’s Great Lakes region.



2 The Enough Project • enoughproject.org

Demand the Supply: Ranking Consumer Electronics and Jewelry Retail Companies on Their Efforts to Develop Conflict-Free Minerals Supply Chains from Congo

Apple Inc. emerged as the clear leader, scoring 114 out of a possible 120 points, plus an additional eight points in extra credit. Although even a perfect score would not mean a company has no more work to do, Apple's consistent fulfillment of the rankings criteria indicates the company has committed substantial resources to developing processes for sourcing minerals from mines that benefit Congolese communities. Alphabet Inc., Google LLC's parent company,³ ranks second overall, even though the company was not included in Enough's 2012 rankings⁴ because at the time they were not manufacturing consumer products containing 3TG minerals. HP Inc., Microsoft Corp., and Intel Corp. round out the top five companies with scores ranging from 72.5-76 points. After that group, the electronics companies take a steep dive, with the next closest company, Panasonic Corp., only scoring 42.5 points and the lowest ranked electronics company, Toshiba Corp., at nine points. And while Signet Jewelers Limited and Tiffany & Co. lead the pack in the jewelry retail industry with 66.5 and 60 points respectively, companies from this industry generally lag far behind, with the remaining eight jewelry retailers scoring between zero and 20 points.

As noted in an October 2017 report by the Responsible Sourcing Network, corporate leaders in the conflict-free minerals space "should push other companies to invest in strong relationships with actors all along their supply chains and to adopt the practices developed by these leaders."⁵ The documented efforts of leading companies should send a signal to the laggards, especially in the jewelry retail sector, that progress is attainable. Together, companies, consumers, students, investors, policymakers, and civil society can demand the supply of conflict-free minerals from Congo.

Companies were ranked based on four core categories of criteria:

- 1. Conducting Conflict Minerals Sourcing Due Diligence and Reporting:** Assessing conflict minerals policies, due diligence, smelter and refiner disclosure, third-party audit participation, and supplier and traceability program engagement.
- 2. Developing a Conflict-Free Minerals Trade and Sourcing Conflict-Free Minerals from Congo, Particularly Gold:** Sourcing verifiably conflict-free tin, tantalum, tungsten, and gold from Congo and supporting the development of a conflict-free minerals trade in Congo through financial contributions and multistakeholder engagement.
- 3. Supporting and Improving Livelihoods for Artisanal Mining Communities in Eastern Congo:** Making financial contributions to projects with the objective of supporting livelihoods and/or improving health, safety, and economic opportunities in artisanal mining communities in eastern Congo.
- 4. Conflict-Free Minerals Advocacy:** Actively supporting the maintenance and enforcement of the Dodd-Frank Wall Street Reform and Consumer Protection Act's Section 1502, and engaging with financial institutions to enhance their awareness of the risks associated with conflict minerals sourcing.

Enough developed these criteria based on a wide range of consultations, research, and experience. Ultimately, they reflect a balance of the best measurements of current company behaviors while also indicating where future efforts should focus. These rankings should be viewed within the broader—and

3 **The Enough Project** • enoughproject.org

Demand the Supply: Ranking Consumer Electronics and Jewelry Retail Companies on Their Efforts to Develop Conflict-Free Minerals Supply Chains from Congo

expanding—context of similar assessments by Enough’s colleagues and partners,⁶ as well as analysis of Congo’s current political crisis dynamics.

For the purposes of these rankings, Enough defines “conflict-free minerals” as minerals that do not directly or indirectly finance or benefit armed groups, including state military units from Congo as well as other predatory regional governments. Because these rankings are focused on activities related to Congo, companies were awarded credit for criteria pertaining to sourcing conflict-free minerals if they were able to demonstrate, to a reasonable degree of certainty based on documented due diligence and risk assessment, that the minerals in their products were not financing armed violence in Congo or the Great Lakes region. This definition does not guarantee that a company’s supply chain is fully free of risk, given that supply chain dynamics are constantly shifting and therefore must be constantly scrutinized and reevaluated. Enough also strongly supports proactive risk assessment and risk management by companies, as outlined in the Organisation for Cooperation and Development (OECD) Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas.⁷

The results of these rankings indicate that top-scoring companies are enhancing their efforts with regard to sourcing conflict-free minerals from Congo; and progress in Congo’s mining areas demonstrates tangible impact to which company efforts contribute. Conflict minerals have never been the only source of income or motivation for armed groups. However, the regulation of the minerals trade as a result of pressure from end-user companies and other stakeholders has contributed to a significant decrease in violence and exploitation in mining areas.⁸ The August 2017 report from the U.N. Group of Experts on the Democratic Republic of the Congo noted that “the implementation of mineral traceability in the

Companies and industries must be held accountable...these rankings serve as a tool for consumers and investors to do that.

Democratic Republic of the Congo has considerably reduced instances of armed groups directly benefiting from the exploitation and trade of tin, tantalum and tungsten.”⁹ As of April 2017, 420 mines in Congo had been verified as conflict-free.¹⁰ At the time of Enough’s first rankings in 2010, no mines had received this designation.

At the same time, companies and industries must be held accountable to ensure progress continues, and these rankings serve as a tool for consumers and investors to do that. Violence has not completely disappeared from mining areas in Congo.

Even if that were to happen, there would still be a range of issues to address—including support for alternative livelihoods and anti-smuggling mechanisms—before a conflict-free minerals trade in Congo would be able to flourish.

In general, the companies Enough ranked have consistently improved the quality of their due diligence programs, including developing and implementing more sophisticated risk management processes and moving beyond annual reporting. Although annual reporting is integral, it is only a first step toward a responsible supply chain. Leading companies acknowledge that these additional efforts are not only

4 **The Enough Project** • enoughproject.org

Demand the Supply: Ranking Consumer Electronics and Jewelry Retail Companies on Their Efforts to Develop Conflict-Free Minerals Supply Chains from Congo

feasible, but in some cases precipitate stronger supply chain management systems overall, which benefit the companies in a variety of ways. By creating and strengthening processes that increase visibility into risks in their supply chains, companies are able to problem solve issues before they metastasize, which can lead to efficiencies in both labor and costs.

Though these developments are encouraging, major challenges remain. First, gold is still a significant source of financing for armed groups in eastern Congo. Companies across the board struggle to adequately trace their gold, and opportunities for in-region conflict-free gold sourcing—especially for artisanally mined conflict-free gold—are scarce. Second, support for access to formal markets and alternative livelihoods in Congolese mining communities continues to be severely under-prioritized and underfunded. Apple, Microsoft Corp., Google, Signet, and Tiffany all made financial contributions in the last fiscal year totaling over \$500,000 to support livelihood improvements in Congolese mining communities. However, this essentially amounts to a rounding error of the more than \$3 trillion combined market capitalization of the 20 companies Enough ranked.¹¹ Third, conflict minerals smuggling and trafficking—especially of gold, which is more valuable in small quantities than the 3Ts and therefore easier to smuggle for a profit—remains a concern in Congo and the broader Great Lakes region. In addition to the progress that can be made through company supply chain risk mitigation, companies and policymakers should engage in efforts to build pressure on Congolese authorities to improve rule of law, security, and accountability.



While the 3T mining sector is beginning to demilitarize, gold is still a significant source of financing for armed groups in eastern Congo. October 2012. Photo: Sasha Lezhnev/Enough Project

Enough's 2017 rankings update companies as well as consumers, investors, policymakers, and Congolese communities on the state of play with regard to conflict-free sourcing efforts. It is important to note that the report does not examine or evaluate the ranked companies' policies or practices with regard to any issues beyond conflict minerals from Congo. In other words, a high score in these rankings does not necessarily correlate with a company being responsible with their labor or environmental practices, or any of the other myriad of important issues that, along with conflict minerals, populate the broad universe of business and human rights standards.

Years of pressure from Congolese civil society and international consumers, student activism, legislative action, multistakeholder and trade association contributions, and corporate leadership have begun to turn the tide in Congo's 3TG sector, where legal, conflict-free mining is starting to become more prevalent,

5 **The Enough Project** • enoughproject.org

Demand the Supply: Ranking Consumer Electronics and Jewelry Retail Companies on Their Efforts to Develop Conflict-Free Minerals Supply Chains from Congo

offering benefits to many miners and mining communities.¹² But major gaps in improvement remain and new challenges have arisen. Corporate transparency broadly, and the U.S. Securities and Exchange Commission Conflict Minerals Rule¹³ in particular, are under attack. Congo faces a constitutional crisis which could be further exacerbated by a resurgence of conflict mineral financing for armed groups. In order to maintain positive momentum, companies, civil society, consumers, and policymakers should continue to undermine the profit motives underlying Congo's violence, and collaborate to support the development of thriving, diverse local economies and transparent global minerals supply chains.

Company Recommendations

The Enough Project recommends the following to companies in the consumer electronics, jewelry retail, and other industries that consume 3TG minerals, as well as their associated supply chains:

- 1. Improve and support public reporting on supply chain due diligence.** All companies, including publicly traded, privately held, U.S. and foreign companies, using 3TG minerals should conduct supply chain due diligence in accordance with the Organisation for Economic Cooperation and Development (OECD) Due Diligence Guidance, and report publicly on that due diligence through their websites and according to any applicable legal requirements. Companies bound by the Securities and Exchange Commission's (SEC) Conflict Minerals Rule in particular should continue to file their Conflict Minerals Reports, and improve that reporting by describing their specific supply chain due diligence practices in detail, listing their smelters and/or refiners and highlighting any innovative ways they have gone beyond the bounds of the law to support a conflict-free minerals market. Despite early 2017 statements by Acting SEC Chair Michael Piwowar and the SEC Division of Corporation Finance, both of which introduced confusion as to the status of enforcement of due diligence requirements, the Conflict Minerals Rule still carries the full force of law, including the requirement that companies report on due diligence measures if they source from the Great Lakes region. Companies should also make their support for such public reporting requirements known, in particular Dodd-Frank Section 1502 and the SEC Conflict Minerals Rule, in order to demonstrate the need for cross-industry standards and protocols.
- 2. Conduct continuous due diligence, not just annual reporting.** Companies should consider due diligence a continuous, year-round endeavor that will become easier and cheaper with time, but will never be complete and should be focused on making steady improvement in areas where risk mitigation remains necessary. Annual reporting per the Conflict Minerals Rule's requirements and based on the OECD Guidance is fundamental for transparency. However, due diligence will only be effective if companies approach it as a continuous effort whose goal is internal awareness about supply chain actors, due diligence, and conflict-free sourcing, not simply meeting a public transparency requirement. In particular, companies should utilize tools like the Risk Readiness Assessment in order to stay apprised of risks in their supply chains and be prepared to respond accordingly.¹⁴ Companies should prioritize following up on relevant supply chain incidents, using industry tools such as publicly available grievance mechanisms and other incident reporting

mechanisms. They should also improve their engagement with suppliers, including smelters and refiners (SORs), ensuring they can list 100 percent of their SORs and require that they all participate in and pass independent third-party audit programs pursuant to Step 4 of the OECD Guidance.¹⁵ Gold users in particular should improve their methods of tracing, using Signet Jeweler's Responsible Sourcing Protocol (SRSP) for conflict-free gold.¹⁶

- 3. Engage in multistakeholder initiatives to design and support progressive initiatives.** With the laws mandating conflict minerals reporting continually under threat of being repealed or undermined,¹⁷ it is critical for companies to begin or renew their engagement with multistakeholder initiatives in order to ensure the momentum built up since Dodd-Frank 1502's passage will continue. Eligible companies should join and/or renew membership in the European Partnership for Responsible Minerals (EPRM) and the Public/Private Alliance for Responsible Minerals Trade (PPA) and become a governance committee member of either or both. Furthermore, companies should join and actively participate in conflict minerals workgroups, calls, and events of organizations like the Responsible Minerals Initiative (formerly the Conflict-Free Sourcing Initiative), and contribute to the Conflict-Free Smelter Program (CFSP) Initial Audit Fund,¹⁸ which helps reduce the financial barriers for SORs to access industry assurance systems.
- 4. Support conflict-free sourcing opportunities and livelihoods opportunities in mining communities with financial investment and public support.** Conflict-free sourcing initiatives with strong traceability and assurance systems, particularly in the artisanal mining sectors in Congo, need investment. Companies can make an important impact by making financial contributions, improving their awareness of the challenges and opportunities related to developing conflict-free sourcing opportunities and livelihoods, and increasing public awareness of the need for these initiatives. Company support to artisanal mining communities should help ensure that miners have access to legal buyers, safe and effective equipment, fair wages, opportunities to advance skills and education, legal services, and alternative livelihoods. Better Sourcing Program is working to provide conflict-free assurance and validation in Congo, and organizations like IMPACT (formerly Partnership Africa Canada), the PPA, and U.S. development organization Pact have initiatives to improve conditions and access to markets, and alternative livelihoods for artisanal miners.
- 5. Set the bar higher.** With supply chain transparency and in-region engagement improving, opportunities to set the bar higher and fill remaining gaps have emerged. Companies should ensure, for example, that their due diligence and risk assessment includes specific attention to mining in national parks in Congo and the wider region, given the unique proliferation, collateral damage, and rule of law challenges specific to mining and armed group activity in national parks.¹⁹ Another area of emerging importance is the role of financial institutions in supply chain due diligence. Companies should improve their communication with their financial institutions, sharing relevant findings resulting from their supply chain due diligence directly with banks to give banks the opportunity to investigate potential risks and opportunities for intervention.

Other industries, including aerospace and defense, medical equipment, automotive, and banking should also join the effort to build transparency in global supply chains and create behavioral shifts that favor responsible business. Additionally, the United States, the European Union, and the Congolese government all have both unique and interdependent roles to play in maintaining and enforcing conflict-free initiatives and accountability in Congo’s minerals trade. And consumers and investors must reinforce the importance of public reporting and due diligence both through their purchasing and investment decisions and through their communications with companies and political stakeholders. For more information about specific actions governments, consumers, and investors can take, refer to this report’s “The Path Forward Together” section.

Background

Before U.S. conflict minerals regulations were implemented in 2012, end-user companies did not trace or publicly report on whether the tin, tantalum, tungsten, and gold—otherwise known as “3TG” or “conflict minerals”—in their products originated in conflict zones in Congo. In 2010, the Enough Project conducted its first electronics company rankings in order to increase awareness among companies whose products contained minerals that could be linked to violence, and encourage consumer activism.²⁰ Enough began by ranking companies with considerable leverage: the largest manufacturers of consumer electronics products in the world. That same year, the United States passed Section 1502 of the Dodd-Frank Wall Street Reform and Consumer Protection Act, requiring all publicly traded companies using 3TG in their products to report on their supply chain due diligence. Enough released its second electronics company rankings in 2012, the same year the Securities and Exchange Commission (SEC) implemented its Conflict Minerals Rule to fulfill the will of Congress under Dodd-Frank Section 1502. Enough’s jewelry leaders review was conducted in 2014, just after publicly traded companies were required to file their first Conflict Minerals Reports with the SEC.²¹ With each iteration of these benchmarking projects, many companies improved, and opportunities were uncovered for deeper engagement on conflict-free minerals sourcing practices and consumer engagement.



The ‘3Ts’: tin, tantalum and tungsten. (Left) Tin is used as a circuit board solder for electronics; (center) tantalum stores electricity and is used in cellular phone batteries and other electronics; (right) tungsten makes cellular phones vibrate. The three minerals are also used in jewelry, including as alternatives to gold or silver wedding bands. Photos: Wikimedia.

8 The Enough Project • enoughproject.org

Demand the Supply: Ranking Consumer Electronics and Jewelry Retail Companies on Their Efforts to Develop Conflict-Free Minerals Supply Chains from Congo

Initial challenges around the implementation of the Conflict Minerals Rule and the transition from a black market, conflict minerals economy to one based on transparency and regulation led to livelihoods loss and other negative impacts for some miners and those involved directly or indirectly in the minerals trade in Congo. However, with growth in conflict-free minerals markets, and more support for livelihoods opportunities, these negative impacts can be addressed.²²

In 2014, Justine Masika Bihamba, coordinator of the Congolese organization Synergy of Women for Victims of Sexual Violence noted, “Ten years ago, we were under de facto control of armed groups...today, let’s admit we are a long way from that. And if we’re honest, that’s in part because of Dodd-Frank—it came to shine the light on those illicit actors. Today, despite the problems with governance, you can feel more government control.”²³ In addition to Congolese civil society support, consumer, investor, and company support for conflict minerals reforms, including the Conflict Minerals Rule, is particularly strong, despite sustained attempts to weaken or dismantle it.

In early 2017, SEC Acting Chair Michael Piwowar requested public comments on the Conflict Minerals Rule, calling it “misguided” and saying it was “unclear that the rule has in fact...resulted in any reduction in the power and control of armed gangs.”²⁴ In response, nearly 12,000 comments were posted, and 99 percent of them called for enforcement and continued implementation of the rule.²⁵ More than 100 Congolese civil society organizations voiced their support for the rule in 11 separate letters, which

The pursuit of conflict-free mining in Congo cannot be divorced from the country’s political dynamics, and it has rarely been a more important time to call attention to the erosion of peace and rule of law.

outlined how it has helped increase rule of law in Congo’s mining sector, and warned that any slowdown or reversal in implementation could lead back to violence and black market corruption.²⁶ Other supportive comments ranged from concerned consumers and investors, to companies themselves—including Signet, which is included in these rankings—which have seen the rule benefit their businesses both from an efficiency and stability standpoint as well as a financial one.²⁷ Despite this clear outpouring of support, at least three more attempts have been made in 2017 alone to dismantle the rule.²⁸

The pursuit of conflict-free mining in Congo cannot be divorced from the country’s political dynamics, and it has rarely been a more important time to call attention to the erosion of peace

and rule of law there. Congo is undergoing an escalating political crisis rooted in President Joseph Kabila’s refusal to cede power to a democratically elected successor within the timeframe mandated by the Congolese constitution. He has remained in office well beyond his term limits using manipulation and violent repression against protestors and civil society groups. Many of the same activists who have called for a conflict-free minerals trade are also embroiled in the political crisis, demanding a democratic transition and facing threats for their activism.²⁹ Offering support to the pursuit of corporate and supply

9 **The Enough Project** • enoughproject.org

Demand the Supply: Ranking Consumer Electronics and Jewelry Retail Companies on Their Efforts to Develop Conflict-Free Minerals Supply Chains from Congo

chain transparency, rule of law, and the basic rights of Congolese civil society is all the more important as repression and corruption increases in this context.

Methodology

Industry and Company Selection

Building on rankings in 2010, 2012, and 2014, in 2017 Enough chose to rank the consumer electronics and jewelry retail industries simultaneously to both provide updates and also reinforce the fact that the responsibility of conflict-free sourcing does not rest on any one company or industry. While there are dozens of major industries that use tin, tantalum, tungsten and gold—including apparel, aerospace and defense, automotive, and medical devices—the 20 companies from the consumer electronics and jewelry retail industries were selected because Enough previously ranked them and because these industries are also among the largest end-users of 3TG minerals, with jewelry in particular focused on gold consumption. In addition to pulling from the lists of companies ranked in Enough's 2012 and 2014 reports, the 20 companies selected are among the largest companies as defined by market capitalization and therefore are most likely to have industry-wide influence.³⁰ These industries also both deal directly with consumers and are therefore responsive to consumer pressure.

Criteria Development

The criteria were designed with two main goals in mind: first, to identify the most important areas that need improvement without unfairly moving the goalposts from previous rankings, and promote new opportunities for companies to strengthen their due diligence and reporting practices; and second, to highlight real progress by including certain key criteria from previous Enough rankings where company processes noticeably improved in recent years.

Two extra credit opportunities were also offered related to 1) taking steps to ensure the company's minerals did not originate from national parks, and 2) financial contributions to the Conflict-Free Smelter Program (CFSP) Initial Audit Fund.

Timeline

Companies were first contacted about Enough's intention to rank them on February 1, 2017. They were given one month to respond to the survey questions. At the beginning of March 2017, Enough began a series of consultations with companies to clarify responses, capture additional information, and ensure all responses remained accurate. During this time, Enough also undertook a complete review of companies' websites and, where applicable, companies' SEC filings in order to include all relevant available information and ensure that even companies which chose not to respond to Enough's survey could be fairly assessed and ranked based on publicly available information. In the event that no response was received throughout this process Enough attempted to contact each company several additional times. It is possible that any company that did not respond may have responsible sourcing practices in place that were not mentioned in its publicly available information and therefore not reflected in the company's score.

10 **The Enough Project** • enoughproject.org

Demand the Supply: Ranking Consumer Electronics and Jewelry Retail Companies on Their Efforts to Develop Conflict-Free Minerals Supply Chains from Congo

On July 1, 2017, Enough provided companies with their preliminary scores and allowed time for any final adjustments or disputes. Throughout the company engagement process, companies had the opportunity to improve their scores by taking immediate steps such as contributing to multistakeholder and livelihoods initiatives.

Scores were locked on November 1, 2017, so any updates that may have occurred after that date are not reflected in these rankings. Each company's specific comments as well as relevant information pulled from SEC filings and company websites is available for download at www.enoughproject.org/demandthesupply.

How Companies Have Improved

Company scores reveal some promising developments in a variety of areas. While there is a marked difference between consumer electronics and jewelry retailer progress—with electronics companies generally scoring better overall—there are still several encouraging trends that indicate companies are beginning to more fully comprehend and institutionalize risk-based due diligence practices.

Conflict-Free, Not Congo-Free

A major improvement illuminated by these rankings is the dispensation of the notion once held by several influential companies that being conflict-free also means being Congo-free. Thanks to growing advocacy and industry commitment to not only a conflict-free trade, but a trade that actively benefits Congolese mining communities, companies—especially in the consumer electronics industry—are demonstrating a



A mining town in eastern Congo. After years of pressure from Congolese civil society and international consumers, student activism, legislative action, and corporate leadership, companies are beginning to show it is possible to be conflict-free without being Congo-free. February 2016. Photo: Holly Dranginis/Enough Project.

greater understanding that supporting conflict-free sourcing opportunities in the region is crucial. All except two electronics companies, Toshiba and Samsung Electronics Co. Ltd., received credit for sourcing verifiably conflict-free 3TG minerals from Congo. Almost the exact inverse was true for the jewelry retailers: only Signet received credit, although Tiffany & Co. also received credit for sourcing conflict-free 3T minerals, but not for sourcing conflict-free gold.

Financial Contributions and Participation in Multistakeholder Initiatives

Companies are supporting stronger, broader conflict-free and responsible sourcing initiatives that move beyond their own internal systems. Multistakeholder initiatives such as the Public-Private Alliance on Responsible Minerals Trade (PPA), the Responsible Artisanal Gold Solutions Forum (RAGS) and the European Partnership for Responsible Minerals (EPRM) have had success in a number of areas due to both financial support and meaningful participation from companies.³¹ These initiatives also require support from U.S. and European governments, NGOs, and civil society, as well as buy-in from Congolese and regional governments. Consumer electronics companies have almost exclusively been the only companies participating in these initiatives, though a few others are beginning to come on board. Of the companies Enough ranked, Apple, Google, HP, Intel, and Signet received credit for supporting one or all of these initiatives through participation in calls and committees. Additionally, in the last fiscal year, Apple, Google, Intel, Sony Corp., and Signet made financial contributions, above and beyond membership fees, to one or all of the initiatives ranging from \$25,000 to \$59,999.

After several years of building these collaborative efforts, conflict minerals supply chain due diligence and risk management have been demonstrated to be accessible and attainable for all companies.³²

Company Policies

Nineteen out of 20 companies surveyed had public conflict minerals policies in place that qualified for credit under Enough's criteria. The only company surveyed that did not have a public policy on its website was Neiman Marcus Group, which is also the lowest ranked company overall with a score of zero out of 120 total points. In Enough's 2012 electronics company rankings, only 18 out of 24 surveyed companies held similar policies, and the same was true for 11 out of 14 jewelry retailers in the 2014 jewelry leaders review. Maintaining a policy is a responsibility of companies under the OECD Guidance,³³ which forms the basis for reporting under the SEC Conflict Minerals Rule.³⁴ While seemingly a basic step, it is essential that companies adopt conflict minerals policies and make them public. This fundamentally ensures a company clearly communicates expectations to their employees, suppliers, and customers separate from any legally mandated or elective reporting responsibilities.

The content of these policies is equally if not more important as their existence in the first place. Though not a perfect measurement, of the companies Enough ranked, the strength and detail of a company's policy was generally a good predictor for the strength of their conflict minerals program overall. HP and Microsoft's policies are good examples of clearly outlining supplier expectations and referencing how the companies implement the OECD Guidance. Some companies like Intel and Tiffany & Co. specify in their

policies that they do not ban sourcing 3TG minerals from Congo, which helps underscore the “conflict-free, not Congo-free” mindset.

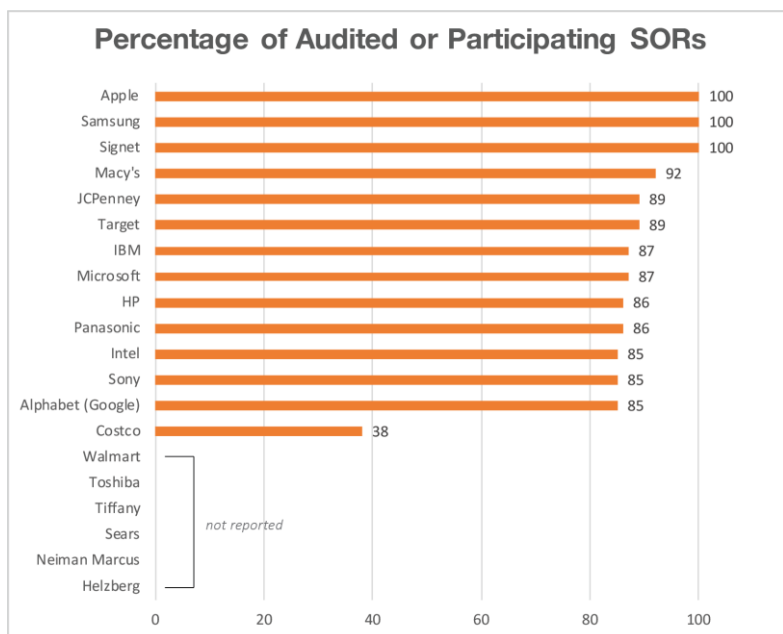
SOR Audit Participation

Smelters and refiners (SORs) are often referred to as the “choke point” in the conflict minerals supply chain. These are the facilities where raw ore material is purified and melted down into useable metals that form the components of final products such as cell phones and jewelry. Because there are relatively few SORs that process 3TG minerals globally, if a company is able to trace its supply chain back at least to this step and then verify that the SORs they source from have passed independent third-party audit processes, the company should be able to claim with a reasonable degree of certainty whether or not it is sourcing from a conflict-free supplier. However, companies should continue to conduct their own due diligence and risk management in addition to utilizing third-party auditing schemes.³⁵

By reporting the number or percentage of SORs in their supply chains that are participating in or have passed third-party audits, companies are able to quantitatively demonstrate one indicator of how robust their due diligence practices are. Three companies, Apple, Samsung, and Signet, achieved 100 percent SOR audit participation. Macy’s, Inc. reported 92 percent participation, and an additional nine companies (Google, J.C. Penney & Co., Target Corp., IBM Corp., Microsoft, HP, Panasonic, Intel, and Sony) fell in the 80-89 percent range, resulting in 13 out of 20 surveyed companies which have at least 80 percent of their SORs listed as participating in conflict-free audits.³⁶ Costco Wholesale Corp. reported 38 percent of its SORs participating in audits, but this number did not meet the 60 percent threshold for awarding points under this criterion. Helzberg Diamonds, Neiman Marcus, Sears Holdings Corp., Tiffany, Toshiba, and Wal-Mart Stores, Inc. did not report SOR audit or participation numbers. It should be noted that Neiman Marcus and Sears did not respond to Enough’s rankings survey or multiple follow-up attempts. They may have documented SOR audit participation numbers that are not public.

Requiring suppliers to source only from third-party audited SORs was arguably not feasible for most companies at the time

of Enough’s first rankings, because at the beginning of 2012 only 11 SORs for the four conflict minerals worldwide had passed audits.³⁷ But as of November 2, 2017, 250 out of 322 SORs have passed audits and



an additional 17 are in the audit process, resulting in 83 percent total participating.³⁸ Given this drastic increase in numbers, companies can and should require their suppliers to source from only audited SORs. In cases where SORs do not comply with audit requirements, companies should initiate the OECD Guidance risk mitigation process, which includes continued engagement with the SORs, temporary suspension, and if needed, removing the non-compliant SORs from their supply chains.³⁹

Reporting SOR audit participation numbers indicates that companies are able to trace their supply chains to this key choke point and also provides a layer of transparency whereby companies are openly reporting improvements in sourcing from audited smelters and where there is still need for increased participation. This transparency goes a step beyond simply reporting the names of known 3TG SORs, and encourages companies to continuously monitor their supply chains and increase their SOR participation numbers. Downstream companies send signals to their suppliers to engage in and support responsible sourcing practices, including far upstream to encourage SORs to participate in third-party audit programs. Companies should continue to require that their SORs undergo audits, since SOR sourcing is a fluid activity that must be monitored continuously.

Livelihoods Support

While 3TG minerals have been an important source of funding for armed groups committing grave human rights abuses and mass atrocities, they have also been a critical source of income for artisanal miners and their dependents in eastern Congo. When Dodd-Frank 1502 became law in 2010, some companies initially chose to remove Congo from their supply chains altogether, effectively boycotting the region. That same year, President Kabila put a ban on all mining activities and mineral exports from eastern Congo,⁴⁰ which negatively affected commodities prices and access to income for many artisanal miners. These factors put the livelihoods and incomes of many families dependent on informal mining at risk, with few measures in place to mitigate the harm. Transitioning from an unregulated, conflict mineral economy to a transparent, monitored, conflict-free system had negative ramifications for some civilian miners. More sophisticated safety nets, including USAID support for the development of alternative livelihoods in mining communities and access to formal markets for artisanal miners, should have been mandated in the original conflict minerals legislation and put in place in the early stages of Dodd-Frank 1502 legislation.⁴¹

In a comment to the SEC, Jamal Usseni, Coordinator for Save Acts Mine in Congo's North Kivu province, describes the initial mishandling of the law's implementation as well as how it has begun achieving its intended goals:

Although criticized for its impact on the ground in the DRC and the Great Lakes region, the law has sparked international momentum towards more responsibility in the mineral supply policies of multinational companies...It can also be safely argued that it is thanks to the [law] that the exploitation of the 3Ts in the eastern DRC is becoming increasingly responsible through the implementation of the mechanisms of traceability of minerals, due diligence and certification of origin of ores.⁴²

Companies should make an effort to mitigate the harsh impacts many miners have experienced since the 3TG mining sector has come under increased—and much needed—scrutiny. Apple, Google, Microsoft, Signet, and Tiffany scored points for financially contributing to projects to support livelihoods and/or improve health, safety, and economic opportunities in artisanal mining communities in eastern Congo. All five of these companies contributed over \$100,000 in their last full fiscal years to projects addressing a range of issues including child mining and poor safety standards for miners. Microsoft, for example, has partnered with Pact to help support economic stability for families to alleviate child mining, and better enforce child mining bans in Katanga.⁴³ Financial contributions to these kinds of projects are sorely needed, especially now as conflict-free operations are truly taking root and systems are being established that will be in place for years to come. Several companies, including some of the five already discussed, also noted that they contributed in-kind donations of technology and expertise, however financial contributions were required to receive credit.

“It is thanks to [Dodd-Frank 1502] that the exploitation of the 3Ts in the eastern DRC is becoming increasingly responsible...”

-Jamal Usseni, Save Acts Mine

How Companies Need to Do Better

Despite the progress and encouraging trends already discussed, these rankings also confirmed there is much work still to be done. The following areas of concern are not the only ones that need attention, but they are the ones that became most apparent after analyzing the rankings results.

Follow Up on Risks in the Supply Chain

With companies increasingly reporting conflict minerals supply chain information—whether by choice or because they are legally mandated to do so—it may be tempting to only conduct a survey of due diligence processes once per year, typically in conjunction with the filing of a company’s Conflict Minerals Report to the SEC or a similar annual company responsibility report. However, as non-governmental organization (NGO) and industry leaders frequently highlight, effective supply chain due diligence management is a dynamic rather than static process. Companies should remain vigilant in their supplier inquiries and establish protocols for following up on reported red flags in as near to real time as possible.⁴⁴

Enough asked companies about their supplier follow-up procedures as well as if and how they follow up with traceability and due diligence programs such as iTSCi and the Better Sourcing Program (BSP) in order to help improve transparency within these programs as well as along the individual company supply chains. As a complement to risk management processes, these traceability programs play an increasingly important role, and one that should be closely monitored, as conflict-free minerals sourcing is becoming a more feasible and desirable venture for end-user companies. They have developed systems to help ensure that conflict-free minerals get from mine to trader to smelter and eventually to end users along a traceable path. Those systems include oversight on upstream risk to aid in downstream regulatory

15 **The Enough Project** • enoughproject.org

Demand the Supply: Ranking Consumer Electronics and Jewelry Retail Companies on Their Efforts to Develop Conflict-Free Minerals Supply Chains from Congo

compliance, meant to strengthen conflict-free mining programs in Congo and, by extension, security and stability in mining areas. Because these systems still face significant challenges linked to mineral fraud and smuggling, it is paramount that companies have access to and follow up on any reported risks in order to contribute to the strengthening of the systems overall.

All 10 electronics companies and six out of 10 jewelry retailers noted they have practices in place for following up with suppliers. However, only two companies, Apple and HP, indicated that they had also gone so far as to follow up with iTSCi, BSP, or other traceability programs when those programs reported incidents of concern.⁴⁵ The latter step is becoming increasingly crucial as responsible sourcing practices solidify and more companies are engaging with traceability programs as a way to consolidate efforts and resources. Upstream programs like iTSCi and BSP provide a streamlined method for companies to verify mineral chain of custody, but these programs have not been free of flaws or growing pains. iTSCi recorded 916 incidents in 2016, with only 324 of those resolved by year's end.⁴⁶ BSP seems to be faring a bit better, with 19 out of 27 incidents managed and resolved as of July 2017.⁴⁷ The fact that these programs are reporting on incidents is a positive step forward, however, end-user companies—the ultimate customers for these programs—must be more diligent about following up on these reported incidents and insist that they be resolved. In May 2017, after years of company and NGO pressure, iTSCi finally began publishing the reports of the local multistakeholder committees in eastern Congo that monitor the minerals trade.⁴⁸ This was an essential step towards ensuring transparency in their traceability system and one that allows companies to then follow up on any concerns noted in the multistakeholder reports.

While individual company risk management processes remain fundamentally important, it can also be helpful to take advantage of collective industry efforts in some circumstances. A deluge of company inquiries could overwhelm the traceability programs and clog rather than improve the systems. To avoid this, companies should utilize centralized collaborative platforms, such as the Responsible Minerals Initiative (RMI).⁴⁹ This initiative has an incident review process as part of its membership, to help facilitate the follow-up and subsequent incident resolution process.

List OECD Steps for Consumer Convenience

With a growing number of complementary and intersecting conflict minerals reporting schemes in place globally, it can be confusing for companies to determine the most effective way to communicate their efforts to a variety of audiences without unnecessarily duplicating work. Newly passed E.U. regulations, voluntary guidance from the China Chamber of Commerce of Metals, and the U.S. SEC Conflict Minerals Rule each outline slightly different expectations, especially in terms of what (if anything) is mandatory for companies to report. Additionally, cities, states, and schools participating in Enough's Conflict-Free Campus Initiative form another type of institutional demand. The OECD Guidance provides a convenient backbone for all of these existing reporting schemes, and thus companies should more explicitly note how and where this guidance shapes their own due diligence efforts in their public reports. All but two companies—Neiman Marcus and Sears—referenced the OECD in their public reporting. However, only 13 of the companies Enough surveyed actually clearly outlined each of the five OECD steps and detailed what they are doing to fulfill each of these steps.

16 **The Enough Project** • enoughproject.org

Demand the Supply: Ranking Consumer Electronics and Jewelry Retail Companies on Their Efforts to Develop Conflict-Free Minerals Supply Chains from Congo

Reporting on information with regard to sourcing forms the basis of a risk-based conflict minerals due diligence approach. It is the first step in ensuring mineral profits do not unknowingly fall into the hands of violent actors. Because of this potential risk, consumers should be able to easily and accurately assess information about what the companies they purchase from are doing—or not doing—to fulfill each of the five OECD Guidance steps.

While this process may seem rote, especially for companies that clearly have well-designed due diligence procedures in place, the practice of actually reporting step-by-step what the company is doing to implement the OECD Guidance provides a helpful tool to consumers and investors who are trying to navigate complex reporting language in order to analyze year-on-year improvements and compare companies with one another. Clear, detailed, public reporting is a company's best defense against any accusations of conflict financing or other related risks in its supply chains, and this reporting also fosters useful information sharing throughout the supply chain and amongst other companies and industries. The actual content outlined under each of these steps remains the most important component, but organizing that content into the five clearly defined categories facilitates more accessible information gathering.

Distinguishing Between the 3Ts and Gold

Of the four conflict minerals, gold remains a conspicuous outlier when it comes to both company-specific and industry-wide progress. Gold from Congo presents particular challenges when it comes to conflict-free sourcing due in part to its inherent and fungible value even in small quantities, making it a prime candidate for smuggling. Efforts by companies, especially jewelry retailers, to improve gold traceability and opportunities for conflict-free sourcing has lagged behind that of the 3Ts.

This stagnation continues to have serious impacts in Congo. While the latest Congo Group of Experts report noted progress reducing 3T funding to armed groups, it also warned “artisanally sourced gold from conflict-affected areas can still be exported to international markets through smuggling, involving illicit financial flows.”⁵⁰ And it is not just rebel militias that are illegally benefiting: “The Group also found that a senior FARDC officer is involved in gold exploitation.”⁵¹ In fact, according to the International Peace Information Service, the Congolese army is the most prevalent armed actor still involved in the conflict gold trade.⁵² These lapses in traceability must be urgently addressed, especially for artisanally mined gold,



A trader weighs gold on a small scale in eastern Congo. Because of its high value even in small quantities, gold is a prime candidate for smuggling. October 2012. Photo: Sasha Lezhnev/Enough Project

or else risk undermining conflict-free minerals efforts across the region and down the supply chain through to the consumer.

Two caveats should be noted about the criteria in Enough's survey relevant to conflict-free gold sourcing: 1) If a company reported sourcing conflict-free minerals from Congo and no further information was provided either in the report or through individual follow-up in order to distinguish whether those conflict-free minerals were 3Ts or gold, the company only received credit for sourcing conflict-free 3Ts, and 2) If a company claimed to be sourcing from third-party audited gold refiners that are known to source gold from Congo, the company received credit for sourcing conflict-free gold from Congo.⁵³

Keeping these two scoring contingencies in mind, only one of the 10 jewelry companies surveyed, Signet, received credit for sourcing verifiably conflict-free gold from Congo compared with eight out of ten surveyed electronics companies. Importantly, this gold is all from industrial, not artisanal sources.

While “blood diamonds” is a nearly ubiquitous term today, consumers are not as well-versed in the possibility of conflict gold in their jewelry.

While “blood diamonds” is a nearly ubiquitous term today, consumers are not as well-versed in the possibility of conflict gold in their jewelry. And even if they are aware of the problem's existence—and awareness is growing—these rankings indicate that for consumers, obtaining information from jewelry retailers about whether their products have materials that help finance the activities of armed groups in Congo would be very difficult at best.

Promising recent developments such as IMPACT's first-ever shipment of verified conflict-free artisanal gold from Congo sold to North American jewelers in 2017⁵⁴ should be invested in and replicated. Jewelry companies, either taking their own initiative, or responding to the growing demands of consumers, should make their interest in conflict-free gold sourcing opportunities in Congo known on their websites and at industry events, and financially support the growth of sourcing opportunities.⁵⁵

Livelihoods Support

Mining, and the various businesses that are sustained by mining, are crucial sources of livelihoods to hundreds of thousands of Congolese people and families. In light of the aforementioned negative impacts of past interventions and corporate boycotts, and the overall flux that formalization causes to local economies, support for livelihoods opportunities in communities dependent on artisanal mining and alternatives is critical. Many artisanal miners and those dependent on the industry have spoken out in favor of the conflict-free market ideals.⁵⁶ As 31 members of the Thematic Working Group on Mining and Natural Resources noted in a letter to the SEC in 2017, “Despite being thousands of kilometers from Washington [USA], the civil society organisations of South Kivu are among those most actively involved in speaking out in favor of the creation of a responsible mining industry and trade in minerals.”⁵⁷ But their

support must not be used as an excuse to prioritize corporate efficiency over the miners' and communities' rights and needs.

Access to livelihoods is not only a basic right in these communities, it is also essential to security. Without access to formal markets or jobs in alternative or complementary sectors, miners will often continue to mine informally. Informal artisanal mining, without regulation, can be extremely dangerous, put women and children at particular safety risks, and have greater propensity to involve criminal networks and armed groups as traders, beneficiaries, or overseers.⁵⁸

“The civil society organisations of South Kivu are among those most actively involved in speaking out in favor of the creation of a responsible mining industry...” - Thematic Working

Group on Mining and Natural Resources, Bukavu, Congo

The importance of support to livelihoods in affected mining communities has been consistently emphasized, starting when the precursor legislation to Dodd-Frank 1502 was drafted in 2009.⁵⁹ But the fulfillment of these opportunities has been too little, too late. Any company or policymaker committed to a conflict-free minerals trade must build awareness around livelihoods in Congo's mining communities and become more active in efforts to support them.

Several promising initiatives have begun to take root, offering models for additional programs and opportunities for direct contributions by companies and donors.⁶⁰ USAID,⁶¹ UNICEF,⁶²

BSP,⁶³ and Pact⁶⁴ have initiated programs aimed at ensuring local economies are supported through transition in the minerals sector. Many often start with improving the safety and well-being of miners, including children who rely on mining to survive. These programs conduct surveys and research to explore alternatives, especially for children who are at greater safety risk in mines and who are legally prohibited from working at the mines. End-user company financial contributions to community-centered, rights-based initiatives aimed at improving access to diverse livelihoods are crucial. They are also appropriate for remediating negative impacts experienced by Congolese mining communities resulting from corporate boycotts and ramifications from legislation to transform opaque supply chains.

Of the five companies that received credit for contributing to livelihoods projects, all but Signet also received credit for increasing the amount of those contributions by 25 percent since 2014. This latter criterion was meant to both commend those companies which have contributed multiple times over several years, not just recently, while also demonstrating where there is room for additional growth.

The companies included in Enough's rankings are among the largest in their respective industries. As such, much more funding should be made available for these livelihoods projects, and companies should also prioritize community relations through consultations and mining area project support, such as health and education for mining communities. When exploring options for contributing to livelihoods support, companies should ensure that the initiatives are inclusive of women and children, position miners as not

only beneficiaries of the programs but leaders and designers of them, include skills-building and education as part of the opportunities for beneficiaries, and prioritize giving individuals choice among diverse livelihoods options, not simply one way to earn an income.⁶⁵

Outstanding Company Efforts

While the encouraging trends outlined in this report indicate companies are becoming acclimated to the idea of conducting more thorough conflict minerals due diligence, the companies discussed below are going above and beyond to get more directly at the heart of maintaining robust due diligence practices and sourcing conflict-free minerals from Congo.

Apple's Supply Chain Risk Identification and Mitigation



As discussed previously, one of the areas for improvement centers around identifying and following up with supply chain incidents recorded both by direct suppliers and by traceability programs such as iTSCi and BSP. Apple is the only company to receive full credit for this criterion as it has clearly demonstrated its commitment to continuously scouring for red flags and removing suppliers, SORs, and others in its supply chain that prove uncooperative or noncompliant with its sourcing standards. To facilitate this process and apply lessons learned from its 3TG practices to other risk areas in its mineral supply chains, Apple developed its Risk Readiness Assessment (RRA) program, which it has administered to over 75 percent of the 3TG smelters in its supply chain.⁶⁶ While Enough's rankings focus exclusively on conflict-free minerals sourcing, it is worth noting that the RRA addresses a much wider range of risk areas, including environmental and labor concerns.

After developing and implementing the RRA for its own supply chain, Apple partnered with the Responsible Business Alliance (formerly the Electronics Industry Citizenship Coalition) to make the program more widely accessible to companies seeking to assess and communicate risk management performance across a set of benchmarked norms representative of best practice in over 30 risk areas. End-user companies can use the RRA to understand how individual suppliers and SORs are addressing a broad range of risks, or to look across multiple SORs in aggregate and understand which risk areas require further capacity building and collective action. By self-assessing their own risk readiness and benchmarking their performance across industry best practice, participating suppliers and SORs can engage in meaningful dialogue with business partners on which risk areas are being addressed and which need prioritization.

Apple not only has found better ways of addressing incidents within its own supply chain, but it has also helped develop shared centralized platforms for risk assessment that other companies can use.

Apple not only has found better ways of addressing incidents within its own supply chain, but it has also helped develop shared centralized platforms for risk assessment that other companies can use. This extra effort contributes to the overall strengthening of conflict minerals supply chain due diligence.

Google's High-Scoring Debut



Google and its parent company Alphabet were not included in previous Enough conflict minerals rankings because the company was not then a large manufacturer of consumer products containing 3TG minerals. Given Google now manufactures and sells consumer electronics products such as cell phones, it was appropriate to include them in the 2017 rankings. Despite only recently becoming engaged on conflict minerals work, Google has quickly become a frontrunner, ranking second overall among the 20 companies. This progress was even observable over the course of the rankings project timeline; the company was not a member of RAGS when Enough initially contacted them in early 2017, but by the end of August 2017 Google had joined and begun participating in initiatives such as looking at options for supporting conflict-free miners in a way that could minimize impacts on national parks.

Part of the reason Google is ranked second is because it has contributed significant funds to several relevant programs, including over \$200,000 to the CFSP Initial Audit Fund. Although smaller companies will not be able to contribute at the same level as Google, Enough ranked 20 of the largest companies in the world, some of which contributed nothing at all to any of the initiatives listed in the criteria. Financial contributions alone are not sufficient—companies including Google should also participate in multistakeholder initiatives in more substantive, collaborative ways while continuing to conduct thorough individual supply chain due diligence—but they are nonetheless necessary to ensure these initiatives survive.

Signet Jewelers and Tiffany & Co.'s Public Advocacy for the Conflict Minerals Rule



As in Enough's 2014 jewelry review, and again in the 2017 rankings, Signet Jewelers and Tiffany & Co. are in a league of their own compared to their jewelry industry peers. They also surpassed several of the electronics companies' scores. While their efforts across the board deserve recognition, these two companies have been distinctly outspoken on the importance of maintaining strong due diligence reporting mandates, including advocating for the continued thorough implementation of Dodd-Frank 1502 and the corresponding SEC Conflict Minerals rule. Company support for the rule is crucial; lawmakers and Trump administration members, who have considered repealing or weakening Section 1502, need to hear from companies who are demonstrating that compliance is doable, and that it actually helps strengthen their public reporting and risk management structures for issues beyond conflict minerals.

Signet and Tiffany were the only two jewelry retail companies to receive credit for the criterion related to Dodd-Frank 1502. Companies are often understandably hesitant to advocate for their own regulation, but some like Signet and Tiffany recognize the benefits of setting a common standard across industries. As former Tiffany CEO Mike Kowalski wrote in a November 2015 *New York Times* op-ed, there "needs to be

a system that involves all stakeholders, including community organizations, and not just industry representatives in its conception and governance. It must set standards that go far beyond today's lowest-common-denominator regulations. Good intentions are not enough; these standards must be transparent, auditable and mine-specific, with on-the-ground performance metrics."⁶⁷

“Good intentions are not enough; these standards must be transparent, auditable and mine-specific, with on-the-ground performance metrics.” – Mike Kowalski, former CEO of Tiffany & Co.

It is significant that Signet and Tiffany have both publicly stated their support for the Conflict Minerals Rule due to their belief that the existence of a standard reporting mechanism buoys, rather than stymies, the strength of company supply chains. Signet even went so far as to submit a comment to the SEC in support of maintaining the Conflict Minerals Rule, stating the company's belief that “Section 1502 has been a global driving force in the supply chains of 3TG to establish and maintain responsible, conflict-free supply chains.”⁶⁸ Support from giants in the jewelry space for the kind of due diligence required by the Conflict Minerals Rule is particularly important because many jewelry companies, especially smaller jewelers, are not

publicly traded and therefore not legally obligated to conduct country of origin inquiries or report on due diligence. By publicly supporting the law, Signet and Tiffany are also sending a message to the jewelry retail industry and jewelers more broadly that these practices are a critical component of corporate responsibility, and perhaps even more importantly, that they are feasible.

Five electronics companies also received credit for conducting advocacy related to the Conflict Minerals Rule, though Signet and Tiffany's efforts stood out given the jewelry retail industry's comparative lack of action and reluctance to speak publicly about the conflict minerals issue.

The Path Forward Together

Supply chain transparency and responsibility are inherently collective, collaborative goals among a range of stakeholders. Many other industries besides consumer electronics and jewelry retail use conflict minerals, including aerospace and defense, medical devices, and automotive. Although some are less susceptible to consumer pressure, they should still join the effort to build transparency in global supply chains. Banks also have a role to play, since the ability to move money in the international financial system is essential for gold smuggling networks in particular, and banks themselves are large consumers of gold. Banks with correspondent relationships in Congo and its nine neighboring countries should improve their due diligence in the region.

Individual company responsibility and action must be bolstered by strong legislation which reinforces the importance of collective efforts to address conflict minerals. Members of Congress should reject any amendments to defund or repeal Dodd-Frank Section 1502, which would undo significant progress made

over the past five years since the law was implemented. The SEC should likewise enforce the corresponding Conflict Minerals Rule and issue guidance clarifying its intent to enforce the rule's due diligence requirements in particular in light of Commissioner Piwowar's comments in April 2017.⁶⁹

Similar to Dodd-Frank 1502, the European Union took a positive step in passing conflict minerals transparency regulations, but these regulations currently only apply to minerals importers, not end-user companies. According to the OECD Guidance, supply chain due diligence is expected of upstream, midstream, and downstream companies alike. Upon its next review of the legislation, the European Union should add end-users and manufacturers to the companies legally required to report on due diligence. In the meantime, governments and consumers in EU member states should do more to encourage end-user companies to voluntarily report.

In order to complement downstream companies' public reporting, the U.S. Department of State should support measures to improve livelihoods and end impunity for corruption in Congo's mining sector. The Department of the Treasury should investigate spoilers of Congo's burgeoning conflict-free minerals trade, targeting individuals and businesses engaged in smuggling and corruption, especially related to gold, and the European Union should also join the effort by investigating minerals trading companies and high-level executives profiting from corruption in Congo's mining sector for sanctions.

The Congolese government has a key role to play because without their cooperation and buy-in any external efforts by companies and other governments risk failure. Congo's government should improve rule of law in mining areas and along supply routes by supporting independent investigations into smuggling, fraud, and human rights violations. It should also cooperate with MONUSCO's economic crimes unit and the prosecutors and investigators participating in the United States Institute of Peace's initiative, whose investigations and cases aim to improve accountability for economic crimes in Congo, including for bringing accountability to smuggling and trafficking activities disrupting supply chains in Congo.⁷⁰ Because gold in particular persists as a source of conflict financing, the Congolese Ministry of Mines and governors in eastern Congo should work with electronics and jewelry retail companies, the U.S. government, the World Bank, and the PPA to overhaul the tax regime for gold, such that it does not incentivize the mining, smuggling, or sale of conflict gold.

Finally, consumers and investors must continue to create the business case for companies to source conflict-free minerals from Congo by remaining vocal about their demand. The public has the power to influence high-level company decision-making, especially in the electronics and jewelry retail industries, because of how public-facing their brands are and how important consumers are to these companies' bottom lines. Asking where minerals in products come from, and what companies are doing to clean up their supply chains and support communities in Congo, in stores or in emails to executives, can have an

Individual company responsibility and action must be bolstered by strong legislation which reinforces the importance of collective efforts to address conflict minerals.

23 **The Enough Project** • enoughproject.org

Demand the Supply: Ranking Consumer Electronics and Jewelry Retail Companies on Their Efforts to Develop Conflict-Free Minerals Supply Chains from Congo

important impact. Consumers, especially students, can also take public actions to raise awareness and pressure, by using social media to express demand for conflict-free products, writing a letter to the editor of their local papers, or organizing in their communities to pass a university, city, or state procurement resolution through Enough's Conflict-Free Campus Initiative.⁷¹ Investors can hold private meetings with company executives to express their commitment to conflict-free sourcing from Congo, write op-eds, organize joint letters with other investors, and make it known when they choose to invest in companies with strong conflict minerals policies that these policies and related practices are part of their investment calculations. Investors and consumers should also participate in political advocacy to ensure that the SEC and Congress hear their support for supply chain due diligence to ensure that the Conflict Minerals Rule and Dodd-Frank 1502 remain in place and that more is done to support conflict-free sourcing and livelihoods in Congo.

The conflict minerals supply chain reform landscape has shifted significantly since 2010, as demonstrated in the findings of these 2017 rankings.⁷² While Enough's rankings have shown that some of the largest companies in the world are still not doing enough, the efforts made by the leaders show what is possible. A more responsible minerals supply chain from Congo can be achieved, and Congolese civil society are joined with consumers around the globe in continuing to demand end-user companies be a part of the solution.

**Consumers and investors
must continue to create
the business case for
companies to source
conflict-free minerals
from Congo by remaining
vocal about their demand.**

Acknowledgements

This report is truly a culmination of years of collaboration and learning from both Enough Project peers and external supporters, with constant guidance from Enough's Founding Director, John Prendergast. Holly Dranginis, Rachel Finn, Greg Hittelman, Sasha Lezhnev, and Ian Schwab formed the core group of contributors and reviewers for the rankings data. Holly also provided constant support throughout the conceptualization, drafting, and editing stages of the report. In addition to reviews from the core rankings team, Brad Brooks-Rubin, Jacinth Planer, and Steve Lannen also provided essential contributions to the revisions, with Steve leading the editorial process and Praveen Madhiraju providing legal support. Layout and media outreach were driven by Jen Lonnquest and Megha Swamy.

Tremendous insights were provided by several external partners, including the Responsible Minerals Initiative and Responsible Trade, LLC. Michele Kalthoff and Dawnmarie McDermid were instrumental in the design and execution of accompanying graphics.

Finally, this report and accompanying campaign were realized thanks to the support of the Schwab Charitable Fund made possible by the generosity of the Open Square Charitable gift fund.

Endnotes

¹ Alphabetical list of electronics companies ranked: Alphabet Inc. (Google LLC), Apple Inc., HP Inc., International Business Machines Corp. (IBM), Intel Corp., Microsoft Corp., Panasonic Corp., Samsung Electronics Co. Ltd., Sony Corp., and Toshiba Corp. Alphabetical list of jewelry retail companies ranked: Costco Wholesale Corp., Helzberg Diamonds (Berkshire Hathaway Inc. subsidiary), J.C. Penney & Co., Macy's Inc., Neiman Marcus Group, Sears Holdings Corp., Signet Jewelers Limited, Target Corp., Tiffany & Co., Wal-Mart Stores, Inc.

² Enough Project, "Getting to Conflict-Free: Assessing Corporate Action on Conflict Minerals," (December 2010), available at https://enoughproject.org/files/corporate_action-1.pdf.

³ While Alphabet is the publicly listed entity whose SEC filings were analyzed for these rankings, Google is referred to throughout this report as it is the more readily recognizable brand name and also the branch of the company which manufactures many of the products that contain 3TG minerals.

⁴ Alex Hellmuth and Sasha Lezhnev, "Taking Conflict Out of Consumer Gadgets: Company Rankings on Conflict Minerals 2012," (Washington: Enough Project, August 2012) available at: <https://enoughproject.org/files/CorporateRankings2012.pdf>.

⁵ Raphaël Deberdt, Patricia Jurewicz, "Mining the Disclosures 2017: An Investor Guide to Conflict Minerals Reporting in Year Four" (Oakland: Responsible Sourcing Network, October, 2017), available at <https://www.sourcingnetwork.org/mining-the-disclosures-2017>.

⁶ For example, see, Chris N. Bayer, Jesse H. Hudson, "Dodd-Frank 1502 – RY2016 Filing Evaluation," (Development International, July, 2017), available at https://docs.wixstatic.com/ugd/f0f801_9502a3a2a8f143a7b5d863792a01318a.pdf; Global Witness, "Digging for Transparency: How U.S. companies are only scratching the surface of conflict minerals reporting," (April 2015), available at <https://www.globalwitness.org/en/campaigns/conflict-minerals/digging-transparency/>; Deberdt and Jurewicz, "Mining the Disclosures 2017: An Investor Guide to Conflict Minerals Reporting in Year Four."

⁷ Organisation for Economic Cooperation and Development, "OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas: Third Edition," (2016), available at <http://www.oecd.org/daf/inv/mne/OECD-Due-Diligence-Guidance-Minerals-Edition3.pdf>.

⁸ As of 2016, the International Peace Information Service (IPIS) found that over three-quarters (79 percent) of 3T miners surveyed in eastern Congo were working in mines where no armed group involvement had been reported. IPIS surveyed 2,026 mines. However, 64 percent of gold miners still work at conflict mines. See Ken Matthysen, Lotte Hoex, Yannick Weyns, "Analysis of the Interactive Map of artisanal mining areas in eastern DR Congo," (Antwerp: International Peace Information Service, October 2016), available at http://ipisresearch.be/wp-content/uploads/2016/10/Analysis-and-map-artisanal-mining-DR-Congo_v005-1.pdf.

⁹ U.N. Security Council, "Final report of the Group of Experts on the Democratic Republic of the Congo," S/2017/672, p. 2, August 10, 2017, available at http://www.un.org/ga/search/view_doc.asp?symbol=S/2017/672.

¹⁰ For the first time in Congo's history, there is a certification process for minerals to assess whether mines and mineral exports are contributing to armed violence or not, and multi-stakeholder teams made up of U.N. officials and Congolese civil society, business, and government representatives make those assessments. As of April 2017, 420 mines in eastern Congo had been validated as conflict-free by these teams, as compared with zero mines just five years ago. See, "Resume Des Missions Conjointes De Qualification Et Validation/Inspection En RDC De Juin 2011 à Avril 2017," Equipe Conjointe de Qualification et Validation and Federal Bureau of Geosciences and Natural Resources (BGR), June 2017, available at https://enoughproject.org/wp-content/uploads/2017/06/Bulletin-ECQ-Mai_2017-FR.pdf. For more information about the mine certification process see, "The Mineral Certification Scheme of the International Conference on the Great Lakes Region (ICGLR)," available at <http://www.oecd.org/investment/mne/49111368.pdf>.

¹¹ The more than \$3 trillion figure was arrived at by adding the listed companies' market capitalization figures found at, Forbes, "Global 2000: Top Regarded Companies," May 2017, available at <https://www.forbes.com/top-regarded-companies/list/> (last accessed November 2017), and similar information about other companies listed at Trefis, available at <https://www.trefis.com/> (last accessed November 2017). They are:

Alphabet: \$579.5 billion, Forbes, "Global 2000: Top Regarded Companies," May 2017, available at <https://www.forbes.com/companies/alphabet/> (last accessed November 2017).

Apple: \$752 billion, Forbes, "Global 2000: Top Regarded Companies," May 2017, available at <https://www.forbes.com/companies/apple/> (last accessed November 2017).

Costco: \$71.09 billion, see Trefis, "Costco," available at https://www.trefis.com/stock/cost/model/trefis?easyAccessToken=PROVIDER_dddc0d73ad14bf1f1899d0bd953e2b691404dd86 (last accessed November 2017).

Helzberg (Berkshire Hathaway Inc.): \$409.9 billion, see Forbes, "Global 2000: Top Regarded Companies," May 2017, available at <https://www.forbes.com/companies/berkshire-hathaway/> (last accessed October 2017).

26 The Enough Project • enoughproject.org

Demand the Supply: Ranking Consumer Electronics and Jewelry Retail Companies on Their Efforts to Develop Conflict-Free Minerals Supply Chains from Congo

HP: \$35.86 billion, see Trefis, “Hewlett-Packard,” available at https://www.trefis.com/stock/hpq/model/trefis?easyAccessToken=PROVIDER_c4afd00ef494bee46a6f438c8d26f45cd3babce1 (last accessed October 2017).

Intel: \$218.6 billion, see Trefis, “Intel,” available at https://www.trefis.com/stock/intc/model/trefis?easyAccessToken=PROVIDER_87633ea72bd9dca1d79b8bc41462481e651ee6b5 (last accessed November 2017).

JCPenney: \$1.8 billion, see Forbes, “Global 2000: Top Regarded Companies,” May 2017, available at <https://www.forbes.com/companies/jc-penney/> (last accessed October 2017).

Macy’s: \$8.9 billion, see Forbes, “Global 2000: Top Regarded Companies,” May 2017, available at <https://www.forbes.com/companies/macys/> (last accessed October 2017).

Microsoft: \$507.5 billion, see Forbes, “Global 2000: Top Regarded Companies,” May 2017 available at <https://www.forbes.com/companies/microsoft/> (last accessed October 2017).

Neiman Marcus: The company was included in Enough’s 2014 jewelry leaders review, but 2017 market capitalization information for was not available.

Panasonic: \$26.2 billion, see Forbes, “Global 2000: Top Regarded Companies,” May 2017, available at <https://www.forbes.com/companies/panasonic/> (last accessed October 2017).

Samsung: \$254.3 billion, see Forbes, “Global 2000: Top Regarded Companies,” May 2017, available at <https://www.forbes.com/companies/samsung-electronics/> (last accessed October 2017).

Sears: \$1.2 billion, see Forbes, “Global 2000: Top Regarded Companies,” May 2017, available at <https://www.forbes.com/companies/sears-holdings/> (last accessed October 2017).

Signet: \$4.7 billion, see Forbes, “Global 2000: Top Regarded Companies,” May 2017, available at <https://www.forbes.com/companies/signet-jewelers/> (last accessed October 2017).

Sony: \$40.4 billion, see Forbes, “Global 2000: Top Regarded Companies,” May 2017, available at <https://www.forbes.com/companies/sony/> (last accessed October 2017).

Target: \$32.15 billion, see Trefis, “Target,” available at https://www.trefis.com/stock/tgt/model/trefis?easyAccessToken=PROVIDER_8b713fc80ccd1085386e3fe61b35ba21f48a0ea0 (last accessed November 2017).

Tiffany & Co.: \$11.6 billion, see Forbes, “Global 2000: Top Regarded Companies,” May 2017, available at <https://www.forbes.com/companies/tiffany-co/> (last accessed October 2017).

Toshiba: \$8.3 billion, see Forbes, “Global 2000: Top Regarded Companies,” May 2017, available at <https://www.forbes.com/companies/toshiba/> (last accessed October 2017).

Walmart: \$262.7 billion, see Trefis, “Walmart,” available at https://www.trefis.com/stock/wmt/model/trefis?easyAccessToken=PROVIDER_671b8a16948d7a50a26a8fb9b86eeb6501a3d9ae (last accessed November 2017).

¹² Enough Project, “Progress and Challenges on Conflict Minerals,” available at <https://enoughproject.org/special-topics/progress-and-challenges-conflict-minerals-facts-dodd-frank-1502> (last accessed November 2017).

¹³ Securities and Exchange Commission, *Conflict Minerals Final Rule, August 22, 2012*, available at <https://www.sec.gov/rules/final/2012/34-67716.pdf>.

¹⁴ See Responsible Business Alliance, “Risk Readiness Assessment (RRA),” available at <http://www.eiccoalition.org/standards/rra/> (last accessed October 2017).

¹⁵ These audits can be conducted by the Conflict-Free Sourcing Program or analogous programs. The OECD Due Diligence Guidance notes that, “companies retain individual responsibility for their due diligence, and should ensure that all joint work duly takes into consideration circumstances specific to the individual company.” Thus, companies should avoid outsourcing their immediate due diligence obligations to industry schemes, which currently aren’t adequately transparent and don’t yet have substantial accountability measures in place. See, Organisation for Economic Cooperation and Development, “OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas: Third Edition,” (2016), available at <http://www.oecd.org/daf/inv/mne/OECD-Due-Diligence-Guidance-Minerals-Edition3.pdf>.

¹⁶ For Signet’s Responsible Sourcing Protocol (SRSP) for conflict-free gold, see, “Signet Responsible Sourcing Protocol (‘SRSP’) for conflict-free gold,” (September 2017), available at <https://signetresponsiblesourcing.com/Signet%20Documents/Signet%20Responsible%20Sourcing%20Protocol%20for%20Gold%20revised%20September%202017.pdf>. See also, “Signet Responsible Sourcing Protocol (‘SRSP’) for conflict-free tin, tungsten and tantalum,” (September 2017), available at <https://signetresponsiblesourcing.com/Signet%20Documents/Signet%20Responsible%20Sourcing%20Protocol%20for%203Ts%20revised%20September%202017.pdf>.

¹⁷ See, National Law Review, “Financial CHOICE Act Passes House – Would Repeal SEC Conflict Minerals Rule,” June 9, 2017, available at <https://www.natlawreview.com/article/financial-choice-act-passes-house-would-repeal-sec-conflict-minerals-rule>;

and Tiffany Hsu, “Treasury Report Calls for Sweeping Changes to Financial Rules,” *New York Times*, October 6, 2017, available at <https://www.nytimes.com/2017/10/06/business/treasury-financial-rules-dodd-frank.html>.

¹⁸ For more information on the CFSP Initial Audit Fund see, Responsible Business Alliance (formerly the Electronic Industry Citizenship Coalition), “EICC Foundation & Initial Audit Fund,” available at <http://www.responsiblemineralsinitiative.org/about/eicc-foundation-initial-audit-fund/> (last accessed October 2017).

¹⁹ Democratic Republic of Congo government, Constituent and Legislative Assembly, Transition Parliament, “Law No. 007/2002 of July 11, 2002 Relating to the Mining Code,” on file with the Enough Project. See specifically Ch. 2, Article 279: Restrictions on the occupation of the land, (j) “national parks.”

²⁰ Enough Project, “Getting to Conflict-Free: Assessing Corporate Action on Conflict Minerals,” December 2010.

²¹ Holly Dranginis, “Going for Gold: Engaging the Jewelry Industry in Responsible Gold Sourcing in Africa’s Great Lakes Region,” (Washington: Enough Project, November, 2014), available at <https://enoughproject.org/reports/going-gold-engaging-jewelry-industry-responsible-gold-sourcing-africas-great>.

²² Enough Project, “Progress and Challenges on Conflict Minerals: Facts on Dodd-Frank 1502” Fact Sheet, (June 2017), available at https://enoughproject.org/wp-content/uploads/2017/05/Progress_and_Challenges_on_Conflict_Minerals_Facts_on_DoddFrank_1502_June-2017-CLEAN.pdf.

²³ Enough Project, “Progress and Challenges on Conflict Minerals: Facts on Dodd-Frank 1502,” available at <https://enoughproject.org/special-topics/progress-and-challenges-conflict-minerals-facts-dodd-frank-1502> (last accessed October 2017).

²⁴ Acting Chairman Michael S. Piowar, “Reconsideration of Conflict Minerals Rule Implementation,” U.S. Securities and Exchange Commission, January 31, 2017, available at <https://www.sec.gov/news/statement/reconsideration-of-conflict-minerals-rule-implementation.html>.

²⁵ The Enough Project conducted an analysis of the comments submitted and found that fewer than 100 argued for the Rule to be repealed and weakened. See Annie Callaway and Ian Schwab, “Controversy grows in US over plans to abolish Conflict Minerals Rule,” *Chemical Watch*, June 2017, available at <https://chemicalwatch.com/56945/controversy-grows-in-us-over-plans-to-abolish-conflict-minerals-rule>.

²⁶ U.S. Securities and Exchange Commission, “Comments on the Statement on the Commission’s Conflict Minerals Rule,” available at <https://www.sec.gov/comments/statement-013117/statement013117.htm> (last accessed October 2017) ; for an overview of the Congolese civil society statements with links to the full comments, see Enough Team, “11 Letters from Congolese Civil Society Groups in Support of the U.S. Conflict Minerals Law,” Enough Project Blog, April 4, 2017, available at <https://enoughproject.org/blog/seven-letters-congolese-groups-support-us-conflict-minerals-law>

²⁷ KEMET Electronics Corporation, a leading global manufacturer of a wide variety of capacitors and one of the world’s largest users of tantalum, credits the Conflict Minerals Rule with the company’s decision to begin investing responsibly in Congo. As a result of this investment, they have saved over \$40 million, according a letter submitted to the SEC by KEMET CEO Per-Olof Loof on February 26, 2017: “The business value is clear: through this initiative we now better control our costs and supply a wide range of tantalum powders to support market demand. The economic benefit to KEMET alone is multiples of what we have invested in the village to improve the life of the miners and their families. In 2016 our Ta supply chain vertical integration work has saved us in excess of \$40,000,000. And, the cost of compliance is less than 0.1% of our annual revenue, or approximately \$650,000.” See, Letter from Per-Olof Loof to Michael S. Piowar, February 26, 2017, “RE: Reconsideration of Conflict Minerals Rule Implementation,” available at <https://www.sec.gov/comments/statement-013117/cll2-1601388-132461.pdf>.

²⁸ See *House Appropriations Act 2018*, H.Amdt.441 to H.R.3354, 115 Cong., available at <https://www.congress.gov/amendment/115th-congress/house-amendment/441>; The White House, *Presidential Memorandum: Suspension of the Conflict Minerals Rule*, February 2017, available at <http://online.wsj.com/public/resources/documents/SECDraftOrder02-08-2017.pdf>; Steven T. Mnuchin and Craig S. Phillips, “A Financial System That Creates Economic Opportunities: Capital Markets,” (Washington: U.S. Department of the Treasury, October, 2017), p. 29, available at <https://www.treasury.gov/press-center/press-releases/Documents/A-Financial-System-Capital-Markets-FINAL-FINAL.pdf>.

²⁹ See Kimiko de Freytas Tamura, “When Will Kabila Go? Congolese Leader Long Overstays His Welcome,” *New York Times*, July 23, 2017, <https://www.nytimes.com/2017/07/23/world/africa/congo-joseph-kabila-elections.html?mcubz=1>; T.K. Hoffman, “In Kasai, A Violent Quest for Prosperity,” Enough Project Blog, April 10, 2017, available at <https://enoughproject.org/blog/kasai-violent-quest-prosperity>; Human Rights Watch, “DR Congo: UN Should Investigate Kasai Violence,” June 1, 2017 available at <https://www.hrw.org/news/2017/06/01/dr-congo-un-should-investigate-kasai-violence>; and Ida Sawyer, “Catholic Bishops Call on Congolese People to ‘Stand Up,’” Human Rights Watch, June 26, 2017, available at [https://www.hrw.org/blog-feed/democratic-republic-congo-crisis](https://www.hrw.org/blog/feed/democratic-republic-congo-crisis).

³⁰ The list of ranked companies is available in Endnote 1 of this report. For the consumer electronics companies, Enough drew upon the list of companies ranked in 2012 and culled the top 10, eliminating companies that are no longer in existence and adding Alphabet (Google), which only recently began selling electronics hardware available to the general public for purchase. Similarly, Enough took the top 10 jewelry retailers from the 2014 jewelry leaders review.

28 **The Enough Project** • enoughproject.org

Demand the Supply: Ranking Consumer Electronics and Jewelry Retail Companies
on Their Efforts to Develop Conflict-Free Minerals Supply Chains from Congo

³¹ More information about the Public-Private Alliance for Responsible Minerals Trade is available at <http://www.resolv.org/site-ppa/> (last accessed November 2017); Responsible Artisanal Gold Solutions Forum, available at <http://solutions-network.org/site-ragsforum/> (last accessed November 2017); European Partnership for Responsible Minerals, available at <https://europeanpartnership-responsibleminerals.eu/> (last accessed November 2017).

³² This point is especially relevant when talking about companies other than the 20 large companies Enough ranked. Smaller companies should not claim to be unable to conduct due diligence or access necessary resources for doing so because of financial constraints.

³³ The OECD guidance states that companies should “Establish strong company management systems. Companies should: A) Adopt, and clearly communicate to suppliers and the public, a company policy for the supply chain of minerals originating from conflict-affected and high-risk areas.” See, Organisation for Economic Cooperation and Development, “OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas: Third Edition,” (2016), available at <http://www.oecd.org/daf/inv/mne/OECD-Due-Diligence-Guidance-Minerals-Edition3.pdf>.

³⁴ “Under the final rule, companies that are required to file a Conflict Minerals Report must exercise due diligence on the source and chain of custody of their conflict minerals. The due diligence measures must conform to a nationally or internationally recognized due diligence framework, such as the due diligence guidance approved by the Organisation for Economic Cooperation and Development (OECD).” See, U.S. Securities and Exchange Commission, “Disclosing the Use of Conflict Minerals,” Fact Sheet, available at <https://www.sec.gov/opa/Article/2012-2012-163htm---related-materials.html> (last accessed October 2017).

³⁵ It is important to note that there are a number of challenges associated with the third-party audit systems, including minerals smugglers who are consistently attempting to undermine the process. Upstream companies must conduct better due diligence to close these gaps and fortify the audit processes. For more information, see Global Witness, “Time to Dig Deeper: Companies exporting and trading minerals from the African Great Lakes have made some progress on responsible sourcing, but must do more,” (August 2017), available at <https://www.globalwitness.org/en/campaigns/democratic-republic-congo/time-dig-deeper/>.

³⁶ One caveat to note about SOR audit participation percentages is that companies are not required under the Conflict Minerals Rule to report the names or conflict-free status of SORs that process exclusively recycled or scrap material. However, in some cases these SORs are still at risk of having processed conflict affected material, especially gold, and are still eligible to undergo audits for this reason. Some companies choose to disclose recycled/scrap SOR information regardless of this not being required. This extra transparency is commendable, and should be accompanied by companies required any recycled/scrap SORs in their supply chain undergo at least a low-risk audit to ensure no conflict material has inadvertently entered their supply chains.

³⁷ Sasha Lezhnev, “29 Smelters Go Conflict-Free, More Help from Aerospace Companies Needed,” Enough Project Blog, December 11, 2012, available at <https://enoughproject.org/blog/29-smelters-go-conflict-free-more-help-aerospace-companies-needed>.

³⁸ Responsible Minerals Initiative, “CFSP Status of Smelters,” available at <http://www.responsiblemineralsinitiative.org/members/active-and-compliant-smelter-count/>, (last accessed November 2017).

³⁹ Organisation for Economic Cooperation and Development, “OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas: Third Edition,” (2016).

⁴⁰ ITRI, “DR Congo mining ban announced by President Kabila: impact on iTSCI project,” Press release, September 13, 2010, available at <https://www.itri.co.uk/itsci/dr-congo-mining-ban-announced-by-president-kabila-impact-on-itsci-project>.

⁴¹ See, *Conflict Minerals Trade Act*, H.R. 4128, 111th Cong. 1 sess. (Government Printing Office, 2009). Available at <https://www.congress.gov/bill/111th-congress/house-bill/4128/text>; and Holly Dranginis, “Boom Town: What Happened When Wall Street Reform Came to Congo’s Frontier Mining Towns,” Medium, February 11, 2016, available at <https://medium.com/@EnoughProject/boom-town-afe0075ce163>. (“While ridding armed groups from mining areas was one of Section 1502’s central goals, the law’s drafters didn’t ignore the potential negative impacts on local economies and peace-abiding informal miners. Section 5 of the original “Conflict Minerals Trade Act” introduced in 2009, and the legislative predecessor to the final version of Section 1502, included provisions for livelihood support.”)

⁴² Jamal Usseni, “Analysis of the Situation Relating to the Suspension of Dodd-Franck [sic] Act Section 1502 by the American Administration,” (Save Acts Mine, March, 2017), available at <https://www.sec.gov/comments/statement-013117/cll2-1645775-148404.pdf>.

⁴³ Pact, “Pact and Microsoft Expand Fight Against Child Labor in Congo Mining,” Press Release, August 30, 2017, available at <http://www.pactworld.org/news/pact-and-microsoft-expand-fight-against-child-labor-congo-mining>.

⁴⁴ See the OECD guidance for strategies on how to design and implement effective risk management processes. Organisation for Economic Cooperation and Development, “OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas: Third Edition,” (2016).

⁴⁵ While Enough only included one criterion about follow-up, due to the imbalance of the number of companies which had followed up with suppliers versus those that had followed up with suppliers as well as traceability programs, we awarded half credit to companies that only performed the former.

29 The Enough Project • enoughproject.org

Demand the Supply: Ranking Consumer Electronics and Jewelry Retail Companies on Their Efforts to Develop Conflict-Free Minerals Supply Chains from Congo

-
- ⁴⁶ iTSCi, “iTSCi Programme Incidents and Outcomes: 2011 to 2016” (Hertfordshire, UK: March 2017), available at https://www.itri.co.uk/index.php?option=com_mtree&task=att_download&link_id=55669&cf_id=24.
- ⁴⁷ “BSP, as well, produces risk management data and has reported on 27 incidents in 2017, 19 of which have been managed and resolved.” Found in Bayer and Hudson, “Dodd-Frank 1502 – RY2016 Filing Evaluation” p. 13 (Development International, July 2017).
- ⁴⁸ ITRI, “In-region Committee Meeting Minutes,” available at <https://www.itri.co.uk/information/itsci/in-region-committee-meeting-minutes> (last accessed October 2017).
- ⁴⁹ The RMI is an initiative of the Responsible Business Alliance (formerly the Electronics Industry Citizenship Coalition.) See, Responsible Minerals Initiative, “About the Responsible Minerals Initiative,” available at <http://www.responsiblemineralsinitiative.org/about/> (last accessed November 2017).
- ⁵⁰ U.N. Security Council, “Final report of the Group of Experts on the Democratic Republic of the Congo,” S/2017/672, p. 2, August 10, 2017.
- ⁵¹ *Ibid.*
- ⁵² See chart, “Percentage of 193,000 gold workers affected by each armed actor in 2013-2015.” The chart notes 31 percent of gold workers are affected by FARDC “with interference.” Found in Ken Matthysen, Lotte Hoex, Yannick Weyns, “Analysis of the Interactive Map of artisanal mining areas in eastern DR Congo: 2015 update,” p. 20, (Antwerp: International Peace Information Service, October 2016), available at http://ipisresearch.be/wp-content/uploads/2016/10/Analysis-and-map-artisanal-mining-DR-Congo_v005-1.pdf.
- ⁵³ While this does not guarantee the conflict-free gold from Congo that was processed by the audited refiners makes it into the company’s final products, this standard set a reasonable threshold for recognizing companies that are actively pursuing sourcing conflict-free gold from Congo.
- ⁵⁴ IMPACT, “First Responsible and Conflict-Free Artisanal Gold Supply Chain Operational in Eastern Congo,” Press release, May 17, 2017, available at <https://impacttransform.org/en/first-responsible-and-conflict-free-artisanal-gold-supply-chain-operational-in-eastern-congo/>.
- ⁵⁵ In order for conflict-free gold sourcing programs to be successful, additional reforms are needed, including enacting consequences on major conflict gold smuggling networks, changing the incentives for traders to legal, conflict-free gold through tax reform and regional harmonization, and reforming the “hand carry” system on airlines. For more information, see Sasha Lezhnev and John Prendergast, “Strategic Pressure: A Blueprint for Addressing New Threats and Supporting Democratic Change in the DRC,” (Washington: The Enough Project, September 2017), available at https://enoughproject.org/wp-content/uploads/2017/09/StrategicPressure_Enough_Sept2017_web.pdf.
- ⁵⁶ Enough Team, “11 Letters from Congolese Civil Society Groups in Support of the U.S. Conflict Minerals Law,” Enough Project Blog, April 4, 2017.
- ⁵⁷ Thematic Working Group on Mining and Natural Resources, “An Appeal from the Civil Society Organisations of South Kivu in the Democratic Republic of Congo in Reaction to the Announcement made by the Security [sic] and Exchange Commission (SEC) Regarding the Trump Administration’s Decision to Issue an Executive Order Aiming at Suspending the Dodd-Frank Act (“The Obama Law”),” February 2017, available at <https://www.sec.gov/comments/statement-013117/cl12-1597728-132417.pdf>.
- ⁵⁸ Nelson Alusala, “Protecting livelihoods is key to mining the DRC’s riches,” Institute for Security Studies, September 6, 2017, available at <https://issafrica.org/iss-today/protecting-livelihoods-is-key-to-mining-the-drcs-riches>.
- ⁵⁹ The Enough Project Team with the Grassroots Reconciliation Group, “A Comprehensive Approach to Congo’s Conflict Minerals” (April 2009), available at <https://enoughproject.org/files/Comprehensive-Approach.pdf>; Enough Project, “Conflict Minerals: A Broader Push for Reform is Essential,” Open Letter, October 30, 2014, available at https://enoughproject.org/files/OpenLetterConflictMinerals_October_2014.pdf ; Sasha Lezhnev and John Prendergast “Opinion: Electronics companies and consumers can help stop Congolese bloodshed,” *San Jose Mercury News*, July 28, 2009, available at http://www.mercurynews.com/opinion/ci_12931613.
- ⁶⁰ Positive efforts in this area are being made by KEMET Electronics Corporation in particular, a company not ranked but active in supporting a more responsible minerals trade and supporting local communities. Their Kisengo Foundation aims to “...effectively and sustainably improve the lives of the people of Kisengo through an integrated rural development program in infrastructure, health, education and environmental development. Additionally, the Foundation aspires to embrace lasting prosperity and security for all the involved parties, as well as demonstrate that solutions combining social sustainability and economic interests are not mutually exclusive.” Not only has KEMET devoted resources to this initiative, but participates in direct policy advocacy as well, with the company’s CEO Per-Olof Loof testifying at a Congressional hearing in November 2015 on the importance of Dodd-Frank 1502 and debunking myths about costs and ill-effects. See Kisengo Foundation, “Why the Kisengo Foundation?” available at <http://kisengofoundation.org/> (last accessed October 2017), and Per-Olof Loof, “A Silver lining to the Dodd-Frank Act,” Testimony before the House Financial Services Monetary Policy and Trade Subcommittee, “Dodd-Frank Five Years Later: What Have We Learned from Conflict Minerals Reporting,” November 17, 2015, available at <https://financialservices.house.gov/uploadedfiles/hhrg-114-ba19-wstate-ploof-20151117.pdf>.

30 The Enough Project • enoughproject.org

Demand the Supply: Ranking Consumer Electronics and Jewelry Retail Companies on Their Efforts to Develop Conflict-Free Minerals Supply Chains from Congo

-
- ⁶¹ United States Agency for International Development, “Agriculture and Food Security,” available at <https://www.usaid.gov/democratic-republic-congo/agriculture-and-food-security> (last accessed October 2017).
- ⁶² Cornelia Walther, “To school, not to the mines: Investing in primary education in the Democratic Republic of the Congo,” UNICEF, March 18, 2013, available at https://www.unicef.org/education/drcongo_68298.html; UNICEF, “Children’s Rights and the Mining Sector: UNICEF Extractive Pilot” (March 2015), available at https://www.unicef.org/csr/files/UNICEF_REPORT_ON_CHILD_RIGHTS_AND_THE_MINING_SECTOR_APRIL_27.pdf.
- ⁶³ Better Sourcing Program, “Working with USAID to support responsible sourcing efforts in the DRC,” available at http://bsp-assurance.com/updates/case_study/drc/ (last accessed October 2017).
- ⁶⁴ Pact, “Pact and Microsoft Expand Fight Against Child Labor in Congo Mining,” Press Release, August 30, 2017, available at <http://www.pactworld.org/news/pact-and-microsoft-expand-fight-against-child-labor-congo-mining>.
- ⁶⁵ Holly Dranginis, “Doing Good, while Doing Well: Is there a Win-Win Formula for Investing Responsibly in Congo’s Minerals Sector?” (Washington: The Enough Project, July, 2014), available at <https://enoughproject.org/files/DoingGoodWhileDoingWell-Dranginis-EnoughProject-31July2014.pdf>.
- ⁶⁶ Eighty-two percent of tantalum SORs, 81 percent of tin SORs, 80 percent of tungsten SORs, 65 percent of gold SORs = 77 percent of 3TG SORs total. Additionally, Apple has administered this tool with 100 percent of its cobalt SORs, another important mineral sourced from Congo and connected to severe child mining, human rights, and corruption concerns. For these reasons, Apple chose to suspend artisanal cobalt mining from Congo until it can verify a responsible supply chain. See chart “Smelters and Refiners Using the RRA Tool” found in Apple, “Supplier Responsibility: 2017 Progress Report” p. 24 (March 2017), available at <https://images.apple.com/supplier-responsibility/pdf/Apple-Progress-Report-2017.pdf>.
- ⁶⁷ Michael J. Kowalski, “When Gold Isn’t Worth the Price,” *New York Times*, November 6, 2015, available at <https://www.nytimes.com/2015/11/07/opinion/when-gold-isnt-worth-the-price.html?mcubz=1&r=0>.
- ⁶⁸ Signet Jewelers, “Signet Statement Regarding Dodd-Frank Section 1502,” (February 2017), available at <https://www.sec.gov/comments/statement-013117/cll2-1601960-132472.pdf>.
- ⁶⁹ “In light of the foregoing regulatory uncertainties, until these issues are resolved, it is difficult to conceive of a circumstance that would counsel in favor of enforcing Item 1.01(c) of Form SD.” Found in, Acting Chairman Michael S. Piwowar, “Statement of Acting Chairman Piwowar on the Court of Appeals Decision on the Conflict Minerals Rule,” U.S. Securities and Exchange Commission, April 7, 2017, available at <https://www.sec.gov/news/public-statement/piwowar-statement-court-decision-conflict-minerals-rule>.
- ⁷⁰ United States Institute of Peace, “Prosecuting Economic and Environmental Crimes: USIP’s Work in the DRC,” December 2016, available at <https://www.usip.org/publications/2016/12/prosecuting-economic-and-environmental-crimes> (last accessed November 2017).
- ⁷¹ Enough Project, “Conflict-Free Campus Initiative,” available at <https://enoughproject.org/get-involved/cfci> (last accessed November 2017).
- ⁷² Enough’s company rankings were originally designed both as a tool for consumer engagement and to leverage company action, and this 2017 rankings will be the final installment of this tool. Enough looks forward to working with consumers, companies, and all relevant stakeholders to devise new tools in order to continually push towards a truly conflict-free mineral trade in Congo which benefits the Congolese people through both profit and partnership.