



Enough Project Statement:

Conflict minerals court case is of “exceptional importance” and should be reviewed

The Enough Project urges the US Court of Appeals for the DC Circuit to review the case, *National Association of Manufacturers (NAM) et al. v. Securities and Exchange Commission (SEC)*, to ensure that a damaging recent decision on the issues of corporate free speech and peace in the Democratic Republic of Congo does not stand without review.

The Enough Project recognizes that *en banc* rehearings are reserved for rare cases of exceptional importance, or where review is needed to maintain jurisprudential uniformity. This case, which challenges the SEC’s Conflict Minerals Rule mandated by Section 1502 of the Dodd Frank Wall Street Reform Act, fits those criteria. With freedom of speech at the core of the challenge, a key constitutional issue is also at stake.

Corporate transparency related to conflict minerals is of exceptional, measurable public interest and importance. Students from over [150 schools](#) around the United States and another 20 abroad have mobilized to change their schools’ procurement policies. They have also joined the wider conflict-free consumer movement, encouraging companies to clean up their supply chains, source conflict-free minerals from Congo, and invest in development in Africa’s Great Lakes region.

Most recently, more than 500 students signed on to a letter to U.S. Special Envoy to the Great Lakes region Tom Perriello, asking him to prioritize tackling key challenges on conflict minerals. Nineteen schools have [passed resolutions](#) declaring their commitment to purchase electronics from companies pursuing a conflict-free supply chain and supporting peace in Congo. [Five US cities](#) and [two states](#) have passed similar resolutions, indicating an even wider demographic of support for corporate disclosures and the conflict-free movement.

On the specific topic of this case – the SEC’s Conflict Minerals Rule - many major American and international news media outlets have published features, including the New York Times, the Wall Street Journal, Al Jazeera, the Washington Post, National Geographic, and many others. Leading [constitutional scholars](#) and [Congolese activists](#) and have also written in prominent publications on the issue, including an open letter [in support of Dodd Frank 1502](#), signed by 31 experts, former ambassadors, and Congolese civil society leaders.

Review is also needed to maintain uniformity in the court’s decisions. By failing to apply *Zauderer’s* rational review standard of scrutiny in *NAM*, the court ruled in contradiction to its opinion in *American Meat Institute*, which said *Zauderer* applies in cases related to country-of-origin product labeling. Its decision also contradicts *Holder v. Humanitarian Law Project* by failing to defer adequately to Congress on a rule directly related to foreign affairs.

Corporate free speech and its connection with global security and human welfare is of increasing importance in today’s globalizing world. The American people, the people of Congo, and all communities affected by global markets and supply chains deserve clarity from the US courts on consumers’ right to know, and the limits of corporate secrecy allowed by the US constitution.

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