



August 2016

SEC CONFLICT MINERALS RULE

Companies Face
Continuing
Challenges in
Determining Whether
Their Conflict Minerals
Benefit Armed Groups

GAO Highlights

Highlights of [GAO-16-805](#), a report to congressional committees

Why GAO Did This Study

Armed groups in eastern DRC continue to profit from the exploitation of minerals, according to the United Nations. Congress included a provision in the 2010 Dodd-Frank Wall Street Reform and Consumer Protection Act that, among other things, required SEC to promulgate regulations regarding the use of conflict minerals from the DRC and adjoining countries. The act also required Commerce to develop a list of worldwide processing facilities and to assess IPSAs filed in conjunction with SEC disclosures, and included provisions for GAO to assess the SEC regulations' effectiveness in promoting peace and security and report on the rate of sexual violence in the DRC and adjoining countries.

This report examines (1) company disclosures filed in 2015 in response to the SEC conflict minerals regulations, (2) challenges to companies' due diligence efforts related to the processing facilities in conflict minerals supply chains and efforts to mitigate those challenges, and (3) Commerce's actions regarding its conflict minerals-related requirements under the Dodd-Frank Act. The report also provides information on sexual violence in the DRC and three adjoining countries. GAO analyzed a generalizable random sample of SEC filings and interviewed relevant officials.

What GAO Recommends

GAO recommends that Commerce establish a plan outlining steps and time frames for assessing the accuracy of due diligence processes such as IPSAs, and developing the necessary expertise to fulfill these requirements. Commerce concurred with GAO's recommendation.

View [GAO-16-805](#). For more information, contact Kimberly M. Gianopoulos at (202) 512-8612 or gianopoulosk@gao.gov.

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What GAO Found

As a result of country-of-origin inquiries, an estimated 19 percent more companies that filed a specialized disclosure form (Form SD) with the Securities and Exchange Commission (SEC) reported that they knew or had reason to believe they knew the source of the conflict minerals in their products in 2015 than in 2014, based on a generalizable sample of filings GAO reviewed. However, after an estimated 79 percent of the companies that filed a Form SD performed due diligence, an estimated 67 percent of them reported they were unable to confirm the source of the conflict minerals in their products, and about 97 percent of them reported that they could not determine whether the conflict minerals financed or benefited armed groups in the Democratic Republic of the Congo (DRC) and adjoining countries.

Facilities that process conflict minerals pose challenges to the disclosure efforts of companies filing a Form SD because (1) these facilities generally rely on documentary evidence about the origin of conflict minerals, which may be susceptible to fraud; and (2) multiple levels of processing operations introduce fraud risk and may increase the cost associated with disclosures. Industry and other stakeholders have developed or are pursuing efforts to mitigate these risks, such as chemical "fingerprinting" to verify documentary evidence.

Commingled Ore from Multiple Sources for Processing



Source: GAO. | GAO-16-805

As of July 2016, the Department of Commerce (Commerce) had not submitted a report that was required in January 2013, assessing the accuracy of the Independent Private Sector Audits (IPSA) filed by some companies that filed a Form SD, nor had it developed a plan to do so. Ten companies filed the audits between 2014 and 2015 as part of their Conflict Minerals Reports, none of which Commerce has assessed. Commerce officials said they established a team in March 2016, but they noted that they did not have the knowledge, skills, or expertise to conduct IPSA reviews or to establish best practices. As a result, Congress lacks information on the accuracy of the IPSAs and other due diligence processes used by filing companies.

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Abbreviations

CFSI	Conflict-Free Sourcing Initiative
CFTI	Conflict-Free Tin Initiative
CMR	Conflict Minerals Report
Commerce	Department of Commerce
DHS	Demographic and Health Survey
Dodd-Frank Act	Dodd-Frank Wall Street Reform and Consumer Protection Act

DRC	Democratic Republic of the Congo
EDGAR	Electronic Data Gathering, Analysis, and Retrieval
ICGLR	International Conference on the Great Lakes Region
IOM	International Organization for Migration
IPSA	Independent Private Sector Audit
iTSCi	ITRI Tin Supply Chain Initiative
LBMA	London Bullion Market Association
MONUSCO	UN Organization Stabilization Mission in the Democratic Republic of the Congo
NGO	nongovernmental organization
OECD	Organisation for Economic Co-operation and Development
RCM	Regional Certification Mechanism
RCOI	reasonable country-of-origin inquiry
RJC	Responsible Jewellery Council
SD	Specialized Disclosure
SEC	Securities and Exchange Commission
Securities Exchange Act	Securities Exchange Act of 1934
State	Department of State
UN	United Nations
UNDP	United Nations Development Program
UNFPA	United Nations Fund for Population Activities
USAID	United States Agency for International Development
USGS	United States Geological Survey

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August 25, 2016

Congressional Committees

Over the past decade, the United States and the international community have sought to improve security in the Democratic Republic of the Congo (DRC), the site of one of the world’s worst humanitarian crises. An estimate by the International Rescue Committee indicated that since 1998, more than 5.4 million people have died in the DRC as a result of this crisis, which has also destabilized the minerals-rich eastern part of the country, created insecurity, displaced thousands of people, and perpetuated a cycle of poverty. As we previously reported, illegal armed groups and some units of the Congolese national military have committed severe human rights abuses and mass killings and profited from the illegal exploitation of minerals originating in eastern DRC, particularly in the provinces of Nord-Kivu and Sud-Kivu.¹ In May 2016, the United Nations (UN) reported that although the Armed Forces of the Democratic Republic of the Congo conducted military operations against both foreign and local armed groups in eastern DRC in 2015, these groups continue to control territory and profit from natural resources. Fragmentation of some of the armed groups and decreases in troop strength failed to translate into significant improvements in security in 2015 in eastern DRC. The UN also reported that armed groups continue to generate significant revenue from the control, taxation, or looting of all of the “conflict minerals”—gold, tin, tantalum, and tungsten—despite the expansion of traceability and due diligence efforts to more mining sites in the DRC.²

This report is a continuation of GAO’s annual reporting requirement included in the 2010 Dodd-Frank Wall Street Reform and Consumer

¹GAO, *The Democratic Republic of the Congo: U.S. Agencies Should Take Further Action to Contribute to the Effective Regulation and Control of the Minerals Trade in Eastern Democratic Republic of the Congo*, [GAO-10-1030](#) (Washington, D.C.: Sept. 30, 2010).

²The Dodd-Frank Act defines “conflict minerals” as columbite-tantalite (coltan), cassiterite, gold, wolframite, or their derivatives, or any other mineral or its derivatives that are determined by the Secretary of State to be financing conflict in the DRC or an adjoining country. See Pub. L. No. 111-203, § 1502(e)(4). Columbite-tantalite, cassiterite, and wolframite are the ores from which tantalum, tin, and tungsten, respectively, are processed.

Protection Act³ (hereafter referred to as the Dodd-Frank Act) that addressed the trade in conflict minerals. Section 1502 of the act required several U.S. agencies—the Securities and Exchange Commission (SEC), the Department of State (State), the U.S. Agency for International Development (USAID), and the Department of Commerce (Commerce)—to take certain actions to implement the act’s conflict minerals provisions. For example, Section 1502(b) of the act required SEC, in consultation with State, to promulgate disclosure and reporting regulations regarding the use of conflict minerals from the DRC and adjoining countries.⁴ SEC adopted its conflict minerals disclosure rule in August 2012.⁵ Under the act, Commerce is responsible for annually submitting a report to appropriate congressional committees that includes a list of all known conflict minerals processing facilities worldwide and an assessment of the Independent Private Sector Audits (IPSA) and other due diligence processes described by the Dodd-Frank Act conflict minerals provisions.⁶ The act also required State, in consultation with USAID, to submit to appropriate congressional committees a conflict minerals strategy to address the linkages between human rights abuses, armed groups, mining of conflict minerals, and commercial products. In addition, the act included a provision for GAO to report, beginning in 2012, and annually thereafter, on the effectiveness of the SEC rule in promoting peace and security in the DRC and adjoining countries and to report annually, beginning in 2011, on the rate of sexual violence in war-torn areas of the DRC and adjoining countries, among other things.⁷

To respond to the act, in this report we examine (1) company disclosures filed with SEC in 2015 in response to the SEC conflict minerals disclosure

³Pub. L. No. 111-203, § 1502, 124 Stat. 1376, 2213-18.

⁴Section 1502(b) added section 13(p) to the Securities Exchange Act of 1934, 15 U.S.C. § 78m(p). Pub. L. No. 111-203, 124 stat. 1376, 2213-2218.

⁵Conflict Minerals, 77 Fed. Reg. 56,274, (Sept. 12, 2012) (codified at 17 C.F.R. § 240.13p-1).

⁶See Pub. L. No. 111-203, § 1502(c). Section 1502 of the act defines “appropriate congressional committees” to mean the Committee on Appropriations, the Committee on Foreign Affairs, the Committee on Ways and Means, and the Committee on Financial Services of the House of Representatives; and the Committee on Appropriations; the Committee on Foreign Relations; the Committee on Finance; and the Committee on Banking, Housing, and Urban Affairs of the Senate.

⁷Pub. L. No. 111-203, § 1502(d).

rule, (2) challenges to companies' due diligence efforts related to the processing facilities in conflict minerals supply chains and efforts to mitigate those challenges, and (3) Commerce's actions regarding its conflict minerals-related requirements under the Dodd-Frank Act. In addition, we provide information on the rate of sexual violence in eastern DRC and three adjoining countries—Burundi, Rwanda, and Uganda—that has become available since we issued our 2015 report (see appendix I).

To address our objectives, we analyzed documents and data and interviewed officials from SEC, State, USAID, Commerce, the United States Geological Survey (USGS), nongovernmental organizations (NGO), industry, and international organizations. To examine company disclosures filed with SEC in 2015 in response to the SEC conflict minerals disclosure rule, we downloaded Specialized Disclosure reports (Form SD) and Conflict Minerals Reports (CMR) from SEC's publicly available Electronic Data Gathering, Analysis, and Retrieval (EDGAR) database. We randomly sampled 100 reports from a population of 1,281 to create estimates generalizable to the population of all companies that filed in response to the SEC rule. All estimates based on our sample have a margin of error of plus or minus 10 percentage points or less at the 95-percent confidence level, unless otherwise noted. We determined for our 2015 conflict minerals report that the EDGAR database was sufficiently reliable for identifying the universe of Form SD filings.⁸ As described in that report, to review the completeness and accuracy of EDGAR database, we reviewed relevant documentation, interviewed knowledgeable SEC and GAO officials, and reviewed prior GAO reports on internal controls related to SEC's financial systems. We reviewed the Dodd-Frank Act and the requirements of the SEC disclosure rule to develop a questionnaire that guided our data collection and analysis of the filings. We also attended an industry conference on conflict minerals and spoke with company representatives to provide additional perspective. In the United States and Asia, we met with a range of stakeholders, including NGOs, contractors, international organizations, and the private sector, and visited conflict minerals processing facilities to

⁸GAO, *SEC Conflict Minerals Rule: Initial Disclosures Indicate Most Companies Were Unable to Determine the Source of Their Conflict Minerals*, [GAO-15-561](#) (Washington, D.C.: Aug. 18, 2015).

observe conflict minerals processing and due diligence processes.⁹ For a complete description of our scope and methodology, see appendix II.

We conducted this performance audit from September 2015 to August 2016 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Background

Brief History of Conflict in the DRC and the Region

The DRC is a vast, mineral-rich nation with an estimated population of about 75 million people and an area that is roughly one-quarter the size of the United States, according to the UN. Figure 1 shows the DRC's provinces and adjoining countries.

⁹We chose to meet with officials and company representatives in Asia as part of our fieldwork to address our objective focusing on the processing facility stage of conflict minerals supply chains. Asia, led by China, has the largest number of processing facilities identified worldwide. We had previously visited and interviewed officials and representatives of processing facilities in Europe as part of our fieldwork for a previous GAO report on conflict minerals. Moreover, according to officials at State, many of the processing facilities that source conflict minerals from the DRC and adjoining countries are located in Asia.

Figure 1: The Democratic Republic of the Congo with Provinces and Adjoining Countries



Source: GAO, based on United Nations map data. | GAO-16-805

Since its independence in 1960, the DRC has undergone political upheaval, including a civil war, according to State. In particular, eastern DRC has continued to be plagued by violence, often perpetrated against civilians by illegal armed groups and some members of the Congolese national military. In November 2012, M-23, an illegal armed group, occupied the city of Goma and other cities in eastern DRC and clashed with the Congolese national army. During this time, the UN reported numerous cases of sexual violence against civilians, including women and children, which were perpetrated by armed groups and some members of the Congolese national military.

Some of the adjoining countries in the region have also experienced recent turmoil, which has led to flows of large numbers of refugees and internally displaced persons into the DRC.¹⁰ The United Nations High Commissioner for Refugees (UNHCR) estimated that as of mid-2013, there were close to 50,000 refugees from the Central African Republic, over 120,000 refugees from other countries, and about 2.6 million internally displaced persons living in camps or with host families in the DRC.

Uses of Conflict Minerals

Various industries, particularly manufacturing industries, use the four conflict minerals in a wide variety of products. For example, tin is used to solder metal pieces and is also found in food packaging, steel coatings on automobile parts, and some plastics. Most tantalum is used to manufacture tantalum capacitors, which enable energy storage in electronic products such as cell phones and computers, or to produce alloy additives, used in turbines in jet engines (see fig. 2). Tungsten is used in automobile manufacturing, drill bits and cutting tools, and other industrial manufacturing tools and is the primary component of filaments in light bulbs. Gold is used as reserves and in jewelry and is also used by the electronics industry, including, for example, in cell phones and laptops.

¹⁰According to the UN, internally displaced persons are people who have not crossed an international border but have moved to a different region than the one they consider home to escape war, persecution, or terror.

Figure 2: Capacitor-Grade Tantalum Powder



Source: Global Advanced Metals USA, Inc. | GAO-16-805

Conflict minerals are mined in various locations around the world. For example, tin is predominantly mined in China, Indonesia, Peru, and Bolivia, as well as in the DRC, while tantalum is reportedly predominantly mined in areas such as Australia, Brazil, and Canada. Gold, however, is mined in many different countries, including the DRC.

U.S. Government Response to Conflict in the DRC

Congress has focused on issues related to the DRC for more than a decade. In 2006, Congress passed the Democratic Republic of Congo Relief, Security, and Democracy Promotion Act of 2006, stating that U.S. policy is to engage with governments working for peace and security throughout the DRC and hold accountable any individuals, entities, and countries working to destabilize the country.¹¹ In July 2010, Congress

¹¹Pub. L. No. 109-456, § 102(14), 120 Stat. 3384.

passed the Dodd-Frank Act, of which Section 1502 included several provisions concerning conflict minerals in the DRC and adjoining countries.¹² The act requires SEC, State, USAID, and Commerce to take steps on matters related to the implementation of those provisions (see text box).

Dodd-Frank Act Provisions Concerning Conflict Minerals in the Democratic Republic of the Congo (DRC) and Adjoining Countries

- Section 1502(a) states that “it is the sense of the Congress that the exploitation and trade of conflict minerals originating in the DRC is helping to finance conflict characterized by extreme levels of violence in the eastern Democratic Republic of the Congo, particularly sexual- and gender-based violence, and contributing to an emergency humanitarian situation therein, warranting the provisions of section 13(p) of the Securities Exchange Act of 1934, as added by subsection (b).”
- Section 1502(b) requires the Securities and Exchange Commission, in consultation with the Department of State (State), to promulgate disclosure and reporting regulations regarding the use of conflict minerals from the DRC and adjoining countries.
- Section 1502(c) requires State and the U.S. Agency for International Development to develop, among other things, a strategy to address the linkages among human rights abuses, armed groups, the mining of conflict minerals, and commercial products.
- Section 1502(d) requires that the Department of Commerce report, among other things, a listing of all known conflict minerals-processing facilities (smelters and refiners) worldwide and an assessment of the accuracy of the independent private sector audits and other due diligence processes described under section 13(p) of the Securities Exchange Act of 1934.

Source: GAO. | GAO-16-805

As we have previously reported, SEC, State, USAID, and Commerce have each taken steps to address the provisions of the act.¹³

SEC Promulgated the Conflict Minerals Disclosure Rule in 2012

SEC adopted its conflict minerals disclosure rule in August 2012 and published the adopting release in the *Federal Register* in September 2012¹⁴ in response to Section 1502(b) of the Dodd-Frank Act. The act required that SEC promulgate disclosure and reporting regulations regarding the use of conflict minerals from the DRC and adjoining

¹²Pub. L. No. 111-203, § 1502.

¹³[GAO-15-561](#).

¹⁴77 Fed. Reg. 56,274. According to SEC, when SEC proposes or adopts a set of rules, those rules are published in a document called a “proposing release” or “adopting release.”

countries (or “Covered Countries”)¹⁵ by April 2011. In its summary of the rule, SEC noted that to accomplish the goal of helping to end the human rights abuses in the DRC caused by the conflict, Congress chose to use the securities laws disclosure requirements to bring greater public awareness of the source of companies¹⁶ conflict minerals and to promote the exercise of due diligence on conflict mineral supply chains.¹⁷

In the SEC adopting release, SEC noted that it understood Congress’s main purpose in doing so was to attempt to inhibit the ability of armed groups in the DRC and adjoining countries to fund their activities by exploiting the trade in conflict minerals. According to SEC, Congress’s objective was to promote peace and security, and reducing the use of such conflict minerals was intended to help reduce funding for the armed groups contributing to the conflict and thereby put pressure on such groups to end the conflict. SEC also indicated that one of the cosponsors of the provision noted that the provision would “enhance transparency” and “also help American consumers and investors make more informed decisions.”¹⁸

The rule requires companies to file a Specialized Disclosure report (Form SD) if they manufacture or contract to have manufactured products that

¹⁵The term “adjoining country” is defined in Section 1502(e)(1) of the act as a country that shares an internationally recognized border with the DRC, which included Angola, Burundi, Central African Republic, the Republic of the Congo, Rwanda, South Sudan, Tanzania, Uganda, and Zambia at the time that SEC issued its conflict minerals rule. Pub. L. No. 111-203, § 1502. For the purposes of the conflict minerals rule, SEC refers to these countries as “Covered Countries.”

¹⁶The rule uses the term “issuers.” As adopted, the final rule applies to any issuer that files reports with SEC under Section 13(a) or Section 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. §§ 78m(a) and 78o(d)) and uses conflict minerals that are necessary to the functionality or production of a product manufactured or contracted by that issuer to be manufactured. For the purposes of our report, we refer to those issuers affected by the rule as “companies.”

¹⁷The Organisation for Economic Co-operation and Development (OECD) defines “due diligence” as an ongoing, proactive, and reactive process through which companies can ensure that they respect human rights and do not contribute to conflict. Due diligence can also help companies ensure that they observe international law and comply with domestic laws, including those governing the illicit trade in minerals and UN sanctions. Risk-based due diligence refers to the steps companies should take to identify and address actual or potential risks in order to prevent or mitigate adverse impacts associated with their activities or sourcing decisions.

¹⁸77 Fed. Reg. 56,274.

contain conflict minerals necessary to the functionality or production of those products and, as applicable, file a CMR. The form provides general instructions to companies for filing the conflict minerals disclosure and specifies the information that their Forms SD and conflict minerals reports must include. Companies were required to file under the rule for the first time by June 2, 2014, and annually thereafter on May 31.¹⁹

Companies filed for the second time in response to the SEC rule in 2015 on conflict minerals used in calendar year 2014. As we previously reported, SEC adopted the final conflict minerals disclosure rule on August 22, 2012.²⁰ As adopted, the final rule applies to any company that files reports with SEC under Section 13(a) or Section 15(d) of the Securities Exchange Act of 1934²¹ and uses conflict minerals that are necessary to the functionality or production of a product manufactured or contracted by that company to be manufactured.²² The SEC conflict minerals disclosure rule details a process for companies to follow, as applicable, to comply with the rule. Broadly, the process falls into three steps requiring a company to (1) determine whether it manufactures or contracts to have manufactured products with “necessary” conflict minerals; (2) conduct a reasonable country-of-origin inquiry (RCOI) concerning the origin of conflict minerals used; and (3) exercise due diligence, if appropriate, to determine the source and chain of custody of conflict minerals used. Companies that disclose that their products are DRC Conflict Free are required under the SEC rule and SEC staff guidance to include documentation of an Independent Private Sector

¹⁹The first filing by the SEC-reporting companies was set for June 2, 2014, because May 31, 2014 occurred on a weekend. As explained in the SEC adopting release published in the *Federal Register*, if the deadline for filing the conflict minerals disclosure report occurs on a weekend, or a holiday on which SEC is not open for business, then the deadline shall be the next business day.

²⁰[GAO-15-561](#).

²¹15 U.S.C. §§ 78m(a) and 78o(d).

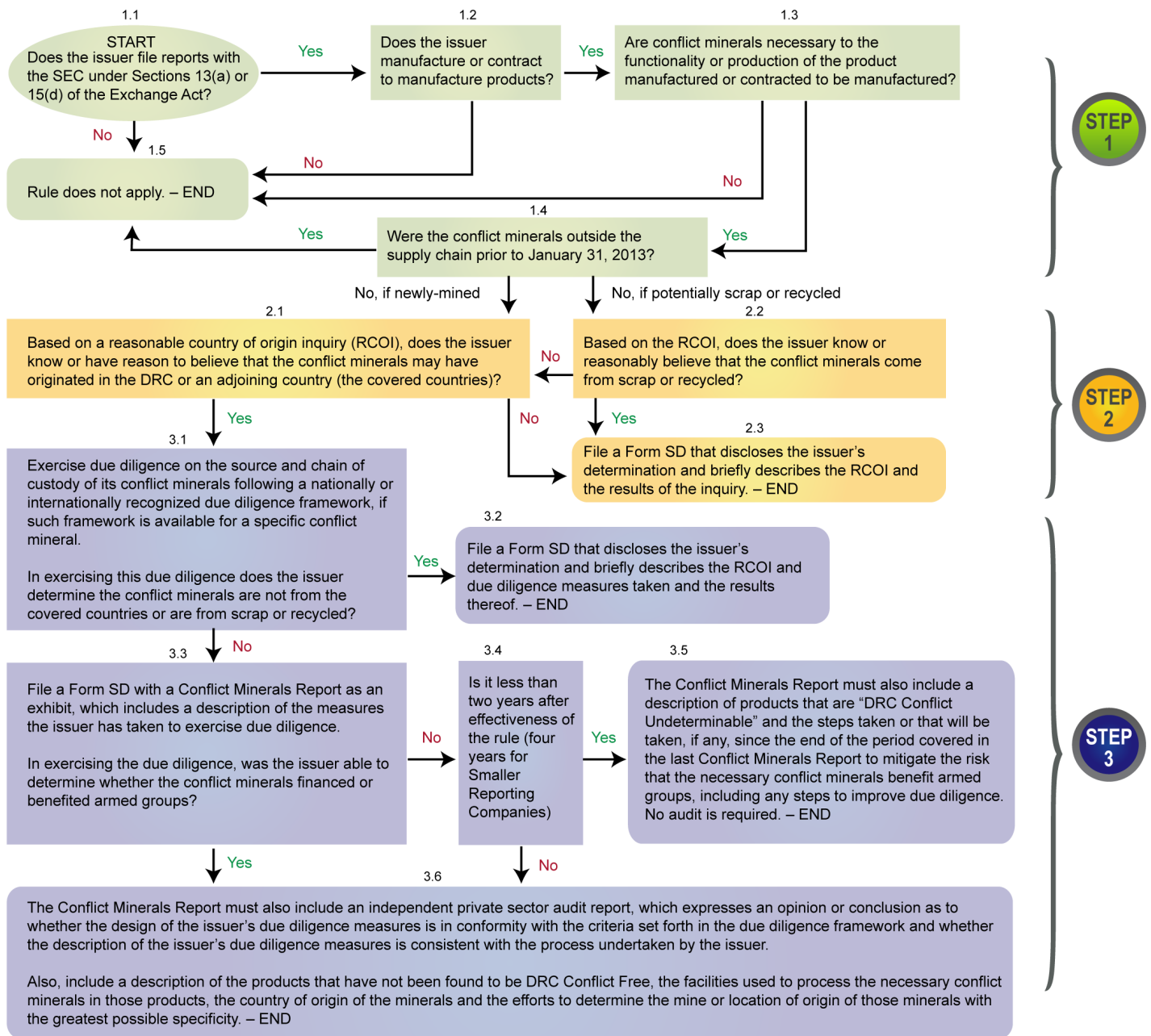
²²77 Fed. Reg. 56,274.

Audit (IPSA) in their disclosure.²³ Figure 3 depicts SEC's flowchart summary for the conflict minerals disclosure rule.²⁴

²³Keith F. Higgins, Director, SEC Division of Corporation Finance, *Statement on the Effect of the Recent Court of Appeals Decision on the Conflict Minerals Rule* (Apr. 29, 2014), available at <http://www.sec.gov/News/PublicStmnt/Detail/PublicStmnt/1370541681994>.

²⁴SEC notes that the flowchart is intended merely as a guide and that companies should refer to the rule text and the preamble's narrative description for the requirements of the rule. While our discussion in this section is guided by the SEC flowchart, for the purposes of this report, we do not elaborate on every element in the flowchart.

Figure 3: Securities and Exchange Commission (SEC) Flowchart Summary of the Conflict Minerals Disclosure Rule



Source: Securities and Exchange Commission (SEC). | GAO-16-805

Conflict Minerals Supply Chain

Supply chains for companies using tin, tantalum, tungsten, and gold generally begin at the mine site, where ore is extracted from the ground with mechanized or artisanal mining techniques. However, these supply chains can be complex and vary considerably, according to some industry association and company representatives. For example, in the “upstream” segment of the supply chain—that is, from mine to processing facility—ore may be purchased by a local trader and then by an exporter, who ships it to a processing facility, such as a smelter, for refinement; in other cases, the ore may be sold directly to an exporter. The “downstream” segments of conflict mineral supply chains—that is, from processing facility to manufacturer—may vary as well, depending, in part, on the type of mineral.

Processing facilities are considered the “choke points” in the supply chain, since a limited number of such facilities process conflict minerals worldwide and the origin of the minerals after processing can be difficult to verify. Processing facilities primarily provide high-purity tin, tantalum, and tungsten directly to component parts manufacturers, although some sell high-purity metals through traders or exchanges. Gold refiners typically sell high-purity gold to banks or to international exchanges where gold is bought and sold, although some refiners sell gold directly to manufacturers; banks and traders may also sell gold to manufacturers, including jewelry and component parts manufacturers. Component parts manufacturers use the refined tin, tantalum, tungsten, or gold to construct individual parts—such as capacitors, engine parts, or clasps for necklaces—that they sell to equipment manufacturers. The original equipment manufacturers complete the final assembly of a product and sell the final product to the consumer.

Responsible Sourcing Initiatives

Various stakeholders—including governments, industry associations, international organizations, and international and local NGOs working in the Great Lakes Region—operate or support initiatives to promote and exercise responsible sourcing of conflict minerals. Stakeholder-developed initiatives—which include the development of guidance documents, audit protocols, and sourcing practices—put themselves out as supporting efforts by companies reporting to SEC under the rule to (1) conduct due diligence of their conflict minerals supply chain, (2) identify the source of conflict minerals within their supply chain, and (3) responsibly source conflict minerals.

The initiatives can be divided into two categories: global or in-region. Most responsible sourcing initiatives follow the Organisation for Economic

Co-operation and Development's (OECD) due diligence guidance. The guidance is for use by any company potentially sourcing minerals or metals from conflict-affected and high-risk areas and, according to the OECD, is one of the only international frameworks available to help companies meet their due diligence reporting requirements.²⁵ Global sourcing initiatives, such as the Conflict-Free Smelter Program, the Responsible Gold Program, and the Chain-of-Custody Certification Program, may minimize the risk that minerals that have been exploited by illegal armed groups will enter the supply chain and may also support companies' efforts to identify the source of the conflict minerals across the supply chain around the world. In-region sourcing initiatives, such as the Conflict-Free Tin Initiative (CFTI), the International Conference on the Great Lakes Region (ICGLR) regional certification mechanism, and the ITRI Tin Supply Chain Initiative (iTSCi), may support responsible sourcing of conflict minerals from Central Africa and the identification of specific mines of origin for those minerals. Such initiatives in the DRC and adjoining countries focus on tracing minerals from the mine to the processing facility by supporting a bagging-and-tagging program or some type of traceability scheme. Below are the descriptions of these initiatives.

Global Initiatives

- *Conflict-Free Smelter Program*: The flagship program of the Conflict-Free Sourcing Initiative (CFSI) is a voluntary program in which processing facilities undergo an independent third-party audit, in accordance with the OECD due diligence guidance, to verify the origin of minerals processed at their facilities. The Electronic Industry Citizenship Coalition and the Global e-Sustainability Initiative have also developed audit protocols for the program in consultation with a number of stakeholders—including NGOs, smelters, component manufacturers, original equipment manufacturers, and industry associations within and outside the electronics industry—to ensure widespread support for the program.
- *Responsible Gold Program*: The London Bullion Market Association (LBMA), which represents the global market for gold and silver,

²⁵The OECD guidance, according to OECD officials, is not only for companies performing conflict minerals-related due diligence. It is general and can be used by organizations anywhere in the world that seek to establish a due diligence program that meets international standards.

established its Responsible Gold Guidance in January 2012 to ensure that the gold refiners it accredits purchase only conflict-free gold. The refiners accredited by LBMA are required to complete an annual third-party audit to verify their compliance with the LBMA guidance, according to an LBMA official. According to LMBA, compliance with this framework is mandatory for all refiners wishing to sell into the London Bullion Market.

- *Responsible Jewellery Council (RJC) Chain-of-Custody Certification Program*: The RJC—a diamond and precious metals industry association—launched a chain-of-custody certification program in March 2012 to help its member companies identify and track conflict-free gold throughout their supply chains. The program’s requirements, which are aligned with the OECD due diligence guidance for gold, include a third-party audit of each certified entity to ensure that its gold is conflict free, according to the RJC. According to an official with the RJC, this certification can support companies’ compliance with the Dodd-Frank Act.

In-Region Sourcing Initiatives

- *CFTI*: The CFTI, a multistakeholder effort, is a closed-pipeline initiative that started in October 2012 for sourcing tin from the Sud-Kivu Province of the DRC. According to CFTI, the initiative has expanded its mining operation to Maniema, a province bordering Sud-Kivu, which is less prone to conflict and where the government is reinvesting tax income into the mining communities.
- *ICGLR Regional Certification Mechanism (RCM)*: In 2010, ICGLR began working with an NGO to develop a regional certification mechanism to ensure that conflict minerals are fully traceable.²⁶ ICGLR’s RCM enables member countries and their mining companies to demonstrate where and under what conditions minerals were produced, allowing member governments to issue ICGLR regional certificates for those mineral shipments that are in compliance with the standards of the mechanism. The ICGLR issued its first certificate in November 2013 to a mine in Rwanda.

²⁶ICGLR is composed of 12 member states: Angola, Burundi, the Central African Republic, the Republic of the Congo, the DRC, Kenya, Uganda, Rwanda, South Sudan, Sudan, Tanzania, and Zambia.

-
- *iTSCi*: iTSCi works with “upstream” entities (i.e., companies involved in the conflict minerals supply chain from mine to smelter) that seek to institute actions, structures, and processes that conform with the OECD due diligence guidance and helps relevant U.S. companies report on their due diligence efforts, as required by the Dodd-Frank Act and SEC rule. The assistance that iTSCi provides includes a system to trace bags of minerals from the mines to the exporter, due diligence audits of iTSCi’s member companies, and assessments of the political and security situations, which have been conducted at various mine sites in the DRC and Rwanda.

Second-Year Filings in Response to SEC Rule Show Increases in Companies’ Information about Their Supply Chains, but Uncertainties Remain Regarding Most Companies’ Sources of Conflict Minerals

The number of companies that filed conflict minerals disclosures in 2015—the second year of filing—is about the same as in the first year, with a majority being domestic companies. A higher estimated percentage of companies in 2015, compared to 2014, disclosed that they knew or had reason to believe they knew the source of the conflict minerals in their products as a result of performing an RCOI, which indicates that they have more information about their supply chains. However, after performing due diligence, as in 2014, a majority of the companies ultimately reported that they were unable to determine the country of origin of the conflict minerals in their products and whether or not such minerals benefited or financed armed groups in the Covered Countries. Companies reported a range of actions they have taken or plan to take to build upon or improve their due diligence efforts, but we did not verify the actions companies reported having taken.

About as Many Companies Filed Conflict Minerals Disclosures in 2015 as in 2014

The number of companies that filed conflict minerals disclosures in 2015 is 1,283, slightly lower than the 1,321 that filed in 2014 (see fig. 3, step 1).²⁷ Based on our analysis of a sample of 2015 filings, an estimated 86 percent of the companies that filed in 2015 were domestic, while the remainder (an estimated 14 percent), were foreign companies, similar to the percentages in 2014.²⁸ Also, our analysis of the filings shows that all four of the conflict minerals were used in 2015. Specifically, while not all

²⁷GAO-15-561.

²⁸Our generalizable sample of 100 filings for 2015 resulted in confidence intervals of +/- 10 percent, except where noted.

companies reported the conflict minerals they used,²⁹ of those that did, an estimated 55 percent reported using tin, 40 percent reported using tantalum, 37 percent reported using tungsten, and 48 percent reported using gold.

Almost All Filers in 2015 Performed an RCOI, and Inquiries Show Increases in Companies' Knowledge about Their Supply Chains

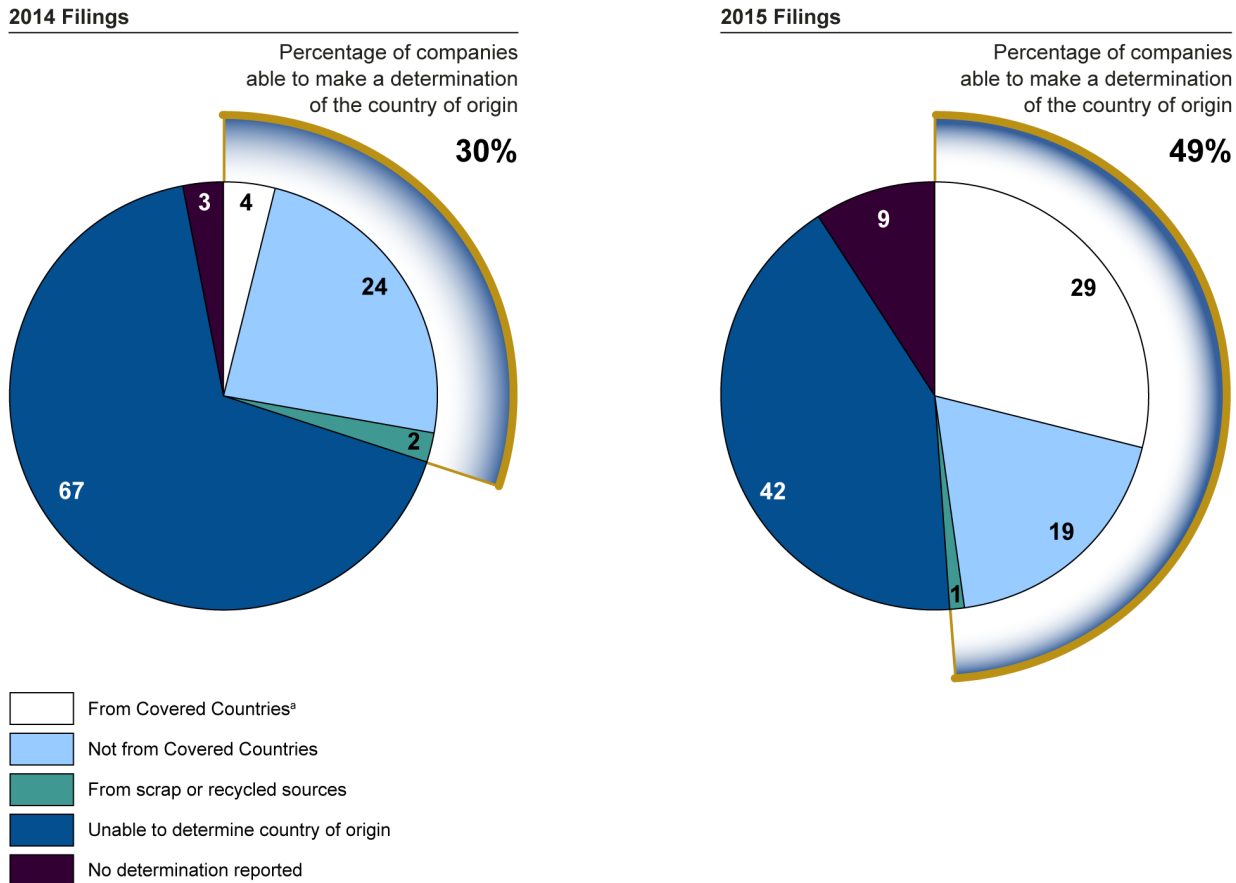
Based on our analysis of a generalizable sample of 2015 filings, almost all companies that filed conflict minerals disclosures in 2015 indicated that they performed an RCOI (see fig. 3, step 2.1). Specifically, an estimated 99 percent of the companies reported that they performed an RCOI, similar to the percentage that reported doing so in 2014.³⁰ Our analysis also estimates that a higher percentage of companies in 2015 indicated knowing more about their supply chains as a result of the RCOI than in 2014. As a result of the increases in information collected from RCOI surveys of their suppliers, an estimated 19 percent more companies reported in 2015 being able to make a determination on whether or not the conflict minerals in their products came from Covered Countries than in 2014 (see fig. 4).³¹

²⁹As we noted in our 2015 report, there is no requirement in the SEC rule for companies to disclose which conflict minerals they used.

³⁰If a company determines that it is subject to the SEC conflict minerals disclosure rule, the company is required to conduct a reasonable country-of-origin inquiry regarding the origin of its conflict minerals and disclose its determination in a Form SD (illustrated by step 2.1 of fig. 3). The rule does not prescribe the specific actions that are required for an RCOI, noting that it will depend on each company's facts and circumstances. However, the rule provides general standards: A company must conduct an inquiry regarding the origin of its conflict minerals that is reasonably designed to determine whether any of its conflict minerals originated in the Covered Countries or are from recycled or scrap sources and must conduct the inquiry in good faith.

³¹This year-to-year change in the percentage of companies able to make a determination of country of origin is statistically significant at the 95-percent confidence level. The rule recognizes that a company, after conducting an RCOI, may not know whether its conflict minerals originated from a Covered Country. For example, the rule explains that a company should perform due diligence on the source and chain of custody of its conflict minerals if it knows or has a reason to believe that its necessary conflict minerals may have originated in the Covered Countries and may not have come from recycled or scrap sources.

Figure 4: Company Determinations from Reasonable Country-of-Origin Inquiries, 2014 and 2015



Source: GAO analysis. | GAO-16-805

Note: Company determinations are reported in response to the U.S. Securities and Exchange Commission (SEC) conflict minerals disclosure rule. These are estimates that have a margin of error of plus or minus 10 percentage points or less at the 95-percent confidence level.

^aThe company determined that it knows or has reason to believe that the conflict minerals in its products come from Covered Countries. Covered Countries are the Democratic Republic of the Congo, Angola, Burundi, the Central African Republic, the Republic of the Congo, Rwanda, South Sudan, Tanzania, Uganda, and Zambia.

Companies reported similar overall rates of information received from suppliers in response to their RCOI information requests about the use, source, and/or processor of the conflict minerals in their products. In 2015, an estimated 99 percent of companies reported surveying their suppliers for information, a percentage similar to the estimated 96 percent in 2014. We estimated that a similar number of companies reported that they received responses from suppliers in 2015 (55 percent) as in 2014 (47 percent). Of those companies reporting responses from suppliers in 2015, supplier response rates ranged from 22 percent to 100 percent, with an estimated average of 81 percent responding. Companies’

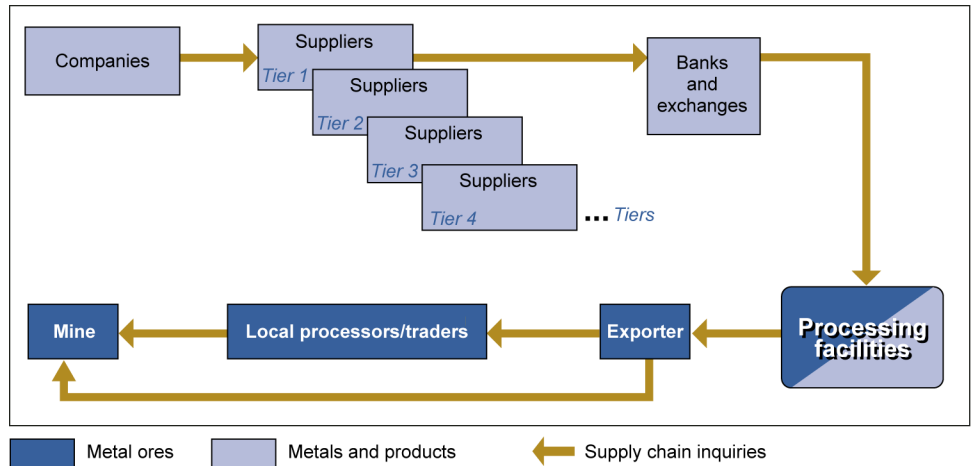
methods for selecting how many and which suppliers to survey varied, but an estimated 75 percent of filing companies reported using a template produced by CFSI, an industry group.

Some filings and representatives of some companies we interviewed reported difficulties in getting sufficient information from all suppliers to enable them to determine the country of origin of all conflict minerals in their products. Some companies reported in their filings that they could not determine the country of origin of some of their conflict minerals because some suppliers did not respond to requests for information. For example, one company reported that it did not receive survey responses from 23 of its 38 suppliers. Additionally, representatives of some companies that we spoke with told us that they received information from suppliers that was incomplete, limiting their ability to determine the source and chain of custody of the conflict minerals in their products. However, several companies reported in their filings or in interviews that they made efforts to follow up with suppliers that did not reply to survey requests, resulting in an increased response rate.

Despite some improvement in companies learning about the source of their conflict minerals by performing an RCOI, the difficulty expressed by companies in obtaining information from suppliers to facilitate a country-of-origin determination seems to reflect the dynamics of the conflict minerals supply chain that we have previously described.³² As we have previously reported, a company's supply chain can involve multiple tiers of suppliers, potentially delaying a company's request for information about upstream companies. For example, companies required to report under the rule could submit the inquiries to their first-tier suppliers. Those suppliers could either provide the reporting company with sufficient information or initiate the inquiry process up the supply chain, such as by distributing the inquiries to suppliers at the next tier—tier 2 suppliers. The tier 2 suppliers could inquire up the supply chain to their suppliers (tier 3), and this process could continue until inquiries reached the processing facility level. Each tier could add time to the process. Processors could then provide the requested information about the origin of the conflict minerals. Figure 5 illustrates the flow of information through the supply chain.

³²GAO, *SEC Conflict Minerals Rule: Information on Responsible Sourcing and Companies Affected*, GAO-13-689 (Washington D.C.: July 18, 2013). See also GAO-15-561.

Figure 5: Simplified Conflict Minerals Supply Chain Showing the Path of Companies' Due Diligence Inquiries



Source: GAO analysis. | GAO-16-805

Companies Reported Performing Due Diligence, but the Majority Were Still Unable to Confirm the Origin of Their Products' Conflict Minerals or Whether They Benefited Armed Groups

Although a higher percentage of companies reported that they were able to make a determination about the country of origin based on their RCOI than in 2014, after conducting due diligence, the majority were unable to confirm the origin of the conflict minerals in their products or whether the minerals financed or benefited armed groups in the Covered Countries.³³ According to the SEC rule, based on a company's RCOI, if a company knows its conflict minerals originated in the Covered Countries and did not come from recycled or scrap sources or has reason to believe that they may have originated in the Covered Countries and may not have come from recycled or scrap sources, the next step is to exercise due diligence using a nationally or internationally recognized due diligence

³³We asked SEC staff to define "source and chain of custody of conflict minerals" in the context of a company's exercise of due diligence. SEC staff noted that SEC did not define these terms as the terms were taken from Section 1502 of the Dodd-Frank Act and did not specifically address in its releases how chain of custody relates to benefitting or financing armed groups. However, as depicted in figure 3, exercise of due diligence on source and chain of custody is associated with a company's ability to determine whether its conflict minerals are not from Covered Countries or are from scrap or recycled sources (see fig. 3, step 3.1), and whether its conflict minerals financed or benefited armed groups (step 3.3).

framework, if such a framework is available for the necessary conflict minerals (see fig. 3, step 3.1).³⁴

An estimated 80 percent of all companies that performed an RCOI in 2015—which is almost all companies that filed a Form SD with SEC—reported that they exercised due diligence. Of these, an estimated 94 percent (similar to the estimated 92 percent in 2014) reported using the OECD framework to perform due diligence, but descriptions of companies' efforts to implement the framework varied widely. For example, some companies stated that they followed the framework without providing descriptive detail for each step of the framework, while other companies documented their implementation of each step. Some companies also identified other resources, such as information from CFSI, LBMA, RJC, and Commerce, as additional verification of their survey results. Based on our analysis, an estimated 79 percent of the companies should have filed a conflict minerals report as an exhibit to the Form SD (similar to an estimated 71 percent in 2014); almost all—an estimated 97 percent—of those companies did so.

A majority of the companies that performed due diligence reported that they were ultimately unable to confirm the origin of their products' conflict minerals or whether the minerals financed or benefited armed groups. According to our analysis, an estimated 67 percent of the companies that performed due diligence determined that they could not definitively identify the origin of the conflict minerals in their products based on the due diligence they performed. A small percentage—an estimated 3 percent—of companies that indicated they performed due diligence reported in 2015 that they were able to determine whether conflict minerals in some of their products financed or benefited armed groups. These companies all reported that they determined that some of the

³⁴While SEC did not specifically mandate the framework to be used, the SEC adopting release noted that it appeared the only nationally or internationally recognized due diligence framework available was the due diligence guidance approved by the OECD. The OECD due diligence guidance, which OECD adopted in 2011, includes supplements on tin, tantalum, tungsten, and gold. The framework's five steps are (1) establishing strong company management systems, (2) identifying and assessing risk in the supply chain, (3) designing and implementing a strategy to respond to identified risks, (4) carrying out an independent third-party audit of supply chain due diligence at identified points in the supply chain, and (5) reporting on supply chain due diligence. Organisation for Economic Co-operation and Development, *OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas: Second Edition*, OECD Publishing (2013), accessed June 23, 2014, <http://dx.doi.org/10.1787/9789264185050-en>.

conflict minerals in their products did not benefit or finance armed groups in the Covered Countries.³⁵ Moreover, these companies chose to label their products as “DRC Conflict Free.” A company that labels any of its products as DRC Conflict Free is required under SEC guidance to include in its CMR a certification that it obtained an IPSA. In our sample, we found that two companies should have included a certification that they obtained an IPSA and we found that one of them did. In total, six companies filed an IPSA during the 2015 filing year.

The SEC rule allows a temporary period during which, if after exercising due diligence for source and chain of custody of conflict minerals used in their products, companies remain unable to determine the origin of conflict minerals used and whether those minerals financed or benefitted armed groups, those companies can describe their products as “DRC Conflict Undeterminable” in their CMR. Under the rule, the temporary period was in place for 2 years for all companies and is in place for 4 years for smaller reporting companies following the effective date of the rule. However, because of continuing litigation in a legal challenge to the conflict minerals rule, SEC staff has issued guidance stating, among other things, that companies are not required to describe their products as “DRC Conflict Undeterminable” or having “not been found to be ‘DRC Conflict Free.’”³⁶ According to our analysis, an estimated 30 percent of companies described their products as “DRC Conflict Undeterminable.”

³⁵Our analysis of the 2014 filings found no companies that reported being able to determine whether conflict minerals in their products financed or benefitted armed groups.

³⁶Additionally, under the SEC staff guidance, an IPSA is not required unless a company voluntarily elects to describe a product as “DRC Conflict Free” in its CMR. See National Association of Manufacturers, et al. v. SEC et al., 800 F.3d 518 (D.C. Cir. 2015) and Keith F. Higgins, Director, SEC Division of Corporation Finance, *Statement on the Effect of the Recent Court of Appeals Decision on the Conflict Minerals Rule* (Apr. 29, 2014), available at <http://www.sec.gov/News/PublicStmt/Detail/PublicStmt/1370541681994> Also, because of the continuing litigation, in 2014, the SEC issued a partial stay order, see *SEC Issues Partial Stay of conflict Minerals Rules*, available at <https://www.sec.gov/News/PressRelease/Detail/PressRelease/1370541720516>.

Companies Reported a Range of Actions They Have Taken or Plan to Take to Build Upon or Improve Due Diligence Efforts

Based on our review of company filings and interviews with representatives of select companies that filed, some companies indicated they are or will be taking action to build upon or improve their due diligence efforts. Companies indicated, for example, that they either planned or performed the following actions:

- Shifting operations or encouraging those in their supply chain to shift from current suppliers to suppliers who are certified as conflict-free.
- Including language in new supplier contracts regarding the company's expectations relating to conflict minerals.
- Continuing follow-up with suppliers that have not replied to survey requests for information or when there are questions regarding supplier responses.
- Providing training to suppliers on conflict minerals due diligence.³⁷

Uncertainty about Source and Chain of Custody of Conflict Minerals at Processing Facilities May Pose Challenges to Companies' Due Diligence Efforts, but Industry and Others' Efforts May Reduce Risks

SEC-filing companies face challenges in their due diligence efforts related to uncertainty about the source and chain of custody of conflict minerals processed by processing facilities because (1) these facilities generally rely on documentary evidence from upstream stakeholders that may be susceptible to fraud, and (2) the complexity of processing operations also introduces fraud risk and may increase the cost associated with disclosure efforts. However, a number of industry programs and other emerging initiatives aim to help companies reduce risks.

³⁷We did not verify any actions companies reported having taken.

Uncertainty about Source and Chain of Custody as Well as Processing Complexities Make Due Diligence Efforts Challenging

Due diligence efforts at the processing facility level are made more challenging by uncertainties about source and chain of custody of conflict minerals in earlier stages of the supply chain. Processing facilities rely on paper documentation from miners and exporters for information on source and chain of custody, which, according to some industry officials, could be susceptible to fraud. Ore may pass through a number of traders and exporters before reaching a processing facility.³⁸ The documentation of these stages may be falsified by smugglers or be incomplete, which may mask the actual source of the minerals being traded, according to some experts. Some programs exist to certify the chain of custody of minerals in some countries, but, as we have previously reported, these programs face operational challenges, including lack of infrastructure and government support.³⁹ OECD reported in 2013 that as long as there are no traceability or certification schemes in place that cover the whole region, smuggling and contamination of conflict-free materials will continue to pose a threat to due diligence initiatives. There are challenges to the integrity of these programs. For example, a 2015 UN Group of Experts report documented the black-market sale of tin supply chain initiative tags; officials obtained two such illicit tags in the DRC and two in Rwanda. As we have previously reported, some agency officials and officials we interviewed from industry, NGOs, and international organizations commented that the DRC government lacks capacity to mitigate corruption and smuggling of conflict minerals.⁴⁰ The UN Group of Experts reported in 2015 that, while there has been progress on traceability and due diligence efforts concerning minerals produced in the DRC, smuggling continues, and there is scant evidence of interest in traceability and due diligence by the governments of the DRC and Burundi.

³⁸As we have previously reported, ore may be purchased from a mine site by a local processor or trader and then by an exporter, who ships it to a processing facility; in other cases, the ore may be sold directly to an exporter. For artisanal mining, the local processor or trader (which may be an individual or company) purchases minerals directly from the mine sites and typically performs basic upgrading, such as concentration, before selling them to an exporter. Exporters may carry out upgrading before exporting materials to a processing facility.

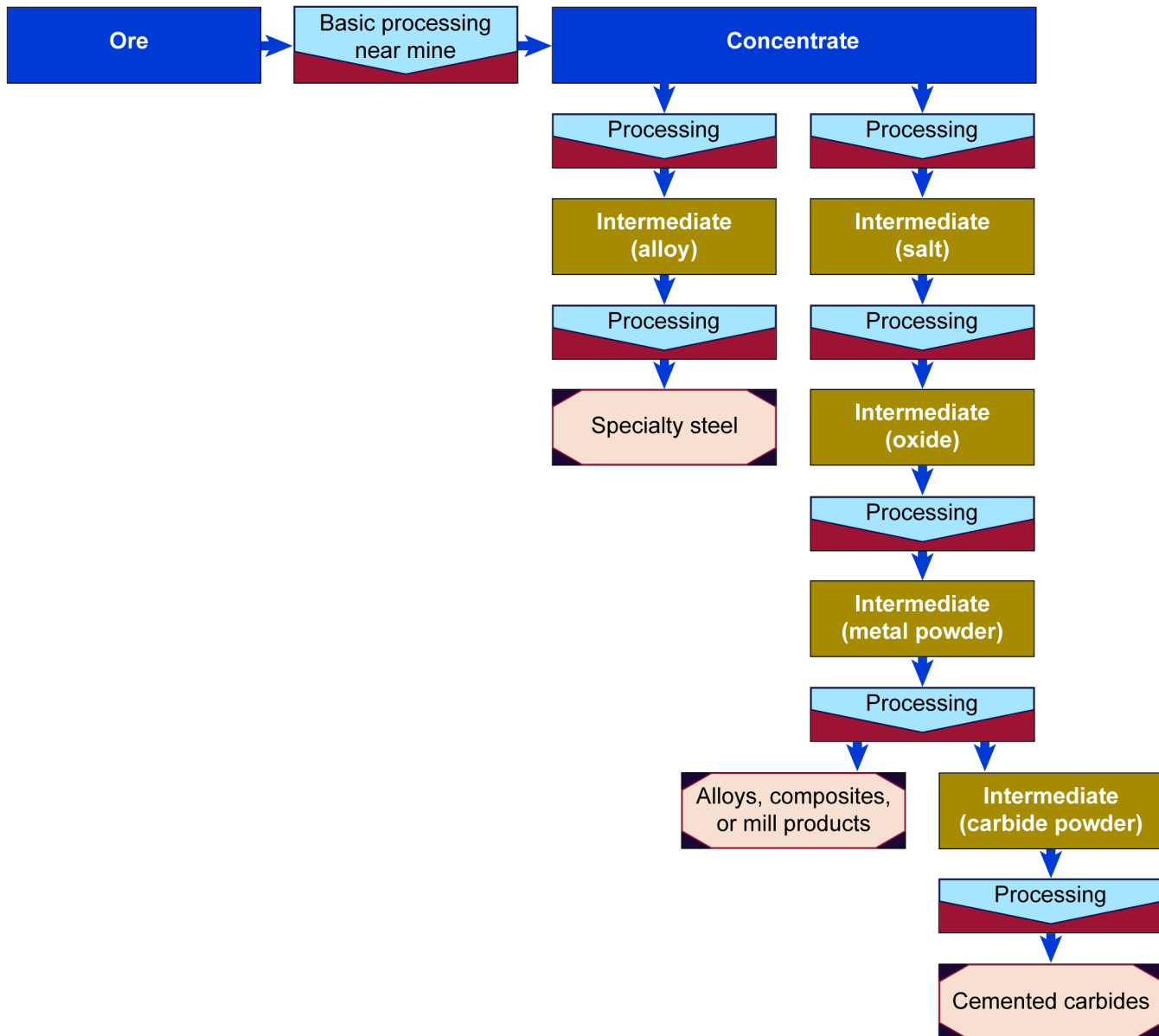
³⁹GAO, *Conflict Minerals: Stakeholder Options for Responsible Sourcing Are Expanding, but More Information on Smelters Is Needed*. [GAO-14-575](#) (Washington, D.C.: June 26, 2014).

⁴⁰[GAO-13-689](#).

Disclosure efforts at the processing-facility level are also made more difficult by the complexity of processing operations. As shown in figure 6, mineral processing may require many stages and distinct intermediate products. According to USGS officials, many processors perform only some of the refining work before selling intermediate products to other processors. Therefore, according to these officials, with each additional processing stage it becomes increasingly likely that minerals will change hands, complicating due diligence efforts that depend on chain-of-custody documentation by increasing opportunities for fraud or error, such as falsified source-of-origin documentation. Even within the context of a vertically integrated processor, such as a single company that performs all of the steps to turn raw concentrate into refined products sold to industry—processing may take place in multiple facilities located in different regions of the world.

Figure 6: General Processing Path of Tungsten

Tungsten processing, similar to tantalum, involves many stages and includes buying and selling of intermediate products by multiple processors, complicating due diligence efforts.



Source: GAO. | GAO-16-805

Further, processing companies may purchase products from multiple suppliers, commingling the products. Commingling can occur at multiple stages of processing, complicating due diligence efforts. “Primary” processing facilities, which upgrade ore concentrate into metal, may source concentrate from multiple locations. These may be combined prior to processing into a product with a higher purity or a different chemical identity (as shown in fig. 7, a photograph we took at a processing facility in Asia). Moreover, intermediate products with different locations of origin may exchange hands at numerous stages. This “secondary” processing-facility commingling further complicates due diligence efforts to identify primary processing facilities and locations of origin because it adds points in mineral processing where fraud and error can be introduced (see fig. 8). In addition, it introduces additional points where downstream companies’ due diligence efforts to identify the source of their minerals can break down.

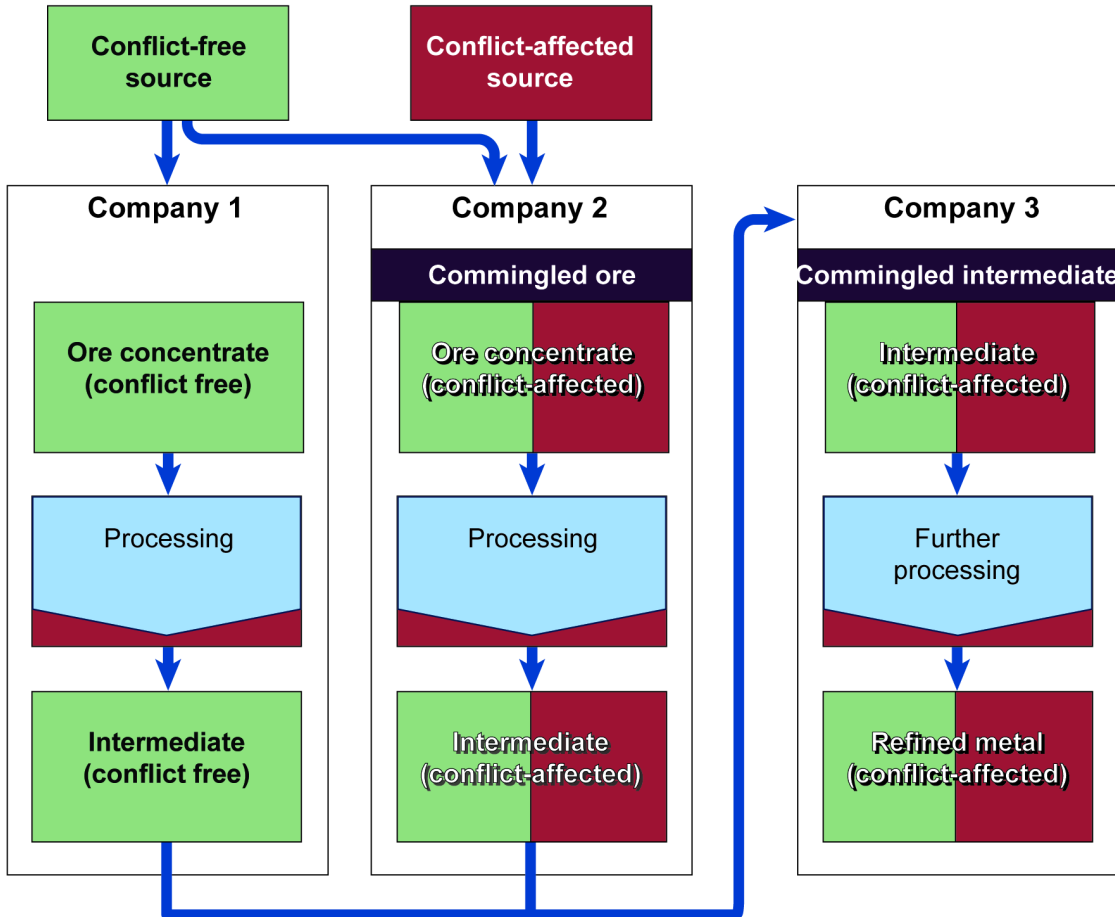
Figure 7: Processors May Commingle Ore Concentrate Purchased from Multiple Sources



Source: GAO. | GAO-16-805

Figure 8: Ore from Multiple Sources May Be Commingled at Several Stages of Processing

In this example, Companies 1 and 2 have similar business models but only Company 1's minerals are conflict free. Company 3 purchases intermediates (such as a powder) from 1 and 2, which are commingled to produce refined, non-conflict-free metal.



Source: GAO analysis. | GAO-16-805

Sourcing and chain-of-custody complexities, which companies reported to be a challenge, may increase the cost required for disclosure efforts or result in missing information. Several of the filings we reviewed indicate that suppliers could identify all of their suppliers but not the suppliers used for a particular batch of output, because they did not have the ability to track production in such detail. As a result, companies completing disclosure efforts may have needed to survey and examine many second-level suppliers from whom they did not actually source minerals, as well as suppliers of these second-level suppliers and their respective

processing facilities. Additional disclosure efforts may be needed because each refined form of tantalum and tungsten used, such as tantalum ingot, tantalum oxide, or tungsten carbide powder, follows from a production process that branches into distinct intermediate products. Many “primary” processing facilities, which turn ore or concentrate into a different downstream product, produce a limited range of possible intermediate products for a given mineral. As a result, the chain of custody for each refined form of mineral used, not simply each mineral type, may need to be examined independently. Moreover, many companies reported that only a portion of their suppliers responded to surveys requesting information about the source and chain of custody of conflict minerals acquired through them. A company’s missing information from its suppliers at one level may result in its having incomplete information from all suppliers earlier in the supply chain. Without information on all companies in its supply chain, a company cannot report knowing the source of all of its conflict minerals or whether any of its conflict minerals benefited armed groups.

Efforts May Mitigate Challenges of Disclosure Efforts at the Processing Facility Level

Industry participants may be reducing the cost of the disclosure process by encouraging the participation of processing facilities in conflict-free certification programs and through efforts to standardize the audit process. According to CFSI and OECD officials, CFSI, LBMA, RJC, and other industry groups are working to better align their programs with OECD’s due diligence guidance that can be used for conflict minerals disclosures, which SEC officials said is the most established due diligence framework for conflict minerals filings under Section 1502 of the Dodd-Frank Act.⁴¹ According to SEC officials, SEC’s conflict mineral processing facility disclosure requirements and terminology are intended to be consistent with OECD’s processing facility standards and definitions, which were the only established due diligence standards at the time SEC’s final rule was being prepared. According to CFSI officials, alignment on these standards reduces the need for redundant audits and encourages participation because it allows for cross-recognition of conflict-free certification by CFSI, LBMA, and RJC; in turn, according to OECD officials, downstream companies rely on these certifications in order to efficiently complete the disclosure process. A 2016 OECD report

⁴¹We found that nearly all companies exercising due diligence in both 2015 (the second year of filings) and 2014 (the first year of filings) reported using OECD’s framework.

noted that all major industry certification initiatives at the processing facility level, including CFSI, LBMA, and RJC, among others, are designed to implement OECD's framework and explicitly use it as their benchmark. OECD's report also notes that, as of March 2015, nearly 100 percent of globally identified tantalum processors, 54 percent of gold refiners (representing nearly 90 percent of all production), and 65 percent of tin processors (approximately 80 percent of all smelted tin production) participate to some degree in an industry audit program designed to implement OECD's framework. Similarly, CFSI officials said that the number of facilities certified by their program has increased from 2 processors 5 years ago to 215 as of April 2015. According to OECD and CFSI officials, there is currently an ongoing external review of CFSI, LBMA, and RJC processes by OECD to ensure alignment with OECD guidelines, which OECD officials said is likely to be completed by early 2017.

Industry participants are also improving the completeness of information available for the audit process by working with CFSI to identify and develop improvements to tools and database systems and by taking steps to educate companies directly, which, according to industry participants, are facilitating disclosure efforts. For example, CFSI officials said that, in 2016, their public processing-facility list has been linked to a database of live information, which may help companies conducting due diligence. These officials also said that the tool is being revised to align with global trade association standards on data exchange. According to these officials, CFSI is also working on its processing-facility database with industry participants to actively identify and investigate new processing facilities, which has helped to provide information for disclosure efforts. These officials said that CFSI has gathered information on 332 processors in its database as of April 2016 (of which 214, or about 64 percent, are compliant with CFSI's standards). Some companies are taking direct steps to encourage industry participants to participate in these industry certification programs. Several companies told us that they are actively reaching out to their suppliers to inform them about conflict minerals rules, encouraging them to participate in industry programs, and offering compliance training. Several companies and an industry group told us that some companies are threatening to switch suppliers if their suppliers do not join conflict-free certification programs. Information may also flow in the other direction. One company we spoke with said that its primary processing facility had reached out to educate it about conflict minerals regulations and had provided extensive training on U.S. disclosure requirements; this company is now using only conflict-free minerals as a result.

Additionally, industry participants are developing new technologies, such as “chemical fingerprinting,” to mitigate the risk of documentation fraud, which may supplement existing certification efforts. Chemical fingerprinting technology allows minerals to be traced to a location of origin based on distinct chemical signatures. At least two distinct methods of chemical fingerprinting are available for use with conflict minerals to confirm location of origin;⁴² however, neither is presently in wide use. Both methods depend on databases in order to function, but the databases are not yet sufficiently developed for reliable use.⁴³ Both have been characterized by experts as potential supplements to chain-of-custody controls.

However, there are limitations to these efforts to mitigate challenges to due diligence efforts. OECD officials noted that industry certification programs sometimes engage in inefficient and redundant auditing, increasing compliance costs, and that downstream companies do not always rigorously scrutinize certification statements, which, if done, might boost the credibility of due diligence efforts. According to these officials and officials we met at processing facilities in Asia, downstream companies also do not shoulder much of the auditing cost burden placed on upstream companies, which may be reducing participation. Further, OECD reported in 2016 that upstream companies and certification initiatives have struggled with the significant cost of conflict minerals traceability programs and voiced their concerns about downstream

⁴²According to a supplier of the technology, Laser Ablation Inductively Coupled Plasma Mass Spectrometry (LA-ICP-MS) enables highly sensitive elemental and isotopic analysis to be performed directly on solid samples. According to this company, Laser Induced Breakdown Spectroscopy (LIBS) uses a short laser pulse to create a microplasma on the sample surface that can be analyzed for chemical composition. According to an official from the Federal Institute for Geosciences in Germany (BGR), BGR is working with local governments to integrate LA-ICP-MS into conflict mineral supply chain management operations. According to an academic expert, the cost per unit for LA-ICP-MS systems is about \$250,000, and the system requires complex training and a larger facility. For LIBS, according to this expert, the cost per handheld unit is \$40,000, and the system requires minimal training and is highly portable; it can be used on-site, for example, to verify the location written on bagged-and-tagged minerals at exporter facilities or processing facilities. However, according to this expert, LIBS has much lower resolution (parts per million) than LA-ICP-MS (parts per billion). And, according to the BGR official, LIBS may detect fewer minerals.

⁴³While acknowledging that their database is currently limited, BGR officials said that their database currently includes between 200 and 300 geological sites and that they have an ongoing sampling campaign in the DRC. An academic expert with LIBS similarly acknowledged that necessary databases have not yet been developed.

companies not sharing the burden sufficiently while benefiting from those programs. Moreover, one NGO said that CFSI is not yet fully compliant with OECD guidance because companies are not completing a step of OECD's framework that would require them to publish a detailed summary of audit findings; foregoing this step reduces the transparency of company due diligence efforts and makes public review of the findings impossible.

Commerce Has Produced Lists of Conflict Minerals Processing Facilities but Has Not Developed Plans to Assess or Advise Audits of Conflict Minerals Filings

Commerce Produced Lists of Conflict Minerals Processing Facilities in 2014 and 2015

Commerce produced annual reports in 2014 and 2015 listing known conflict minerals processing facilities to comply with its responsibilities under the Dodd-Frank Act.⁴⁴ The act requires that Commerce annually report a listing of all known conflict mineral processing facilities worldwide, among other things.⁴⁵ The act does not define processing facilities or describe who should use the list and how to use it. However, the SEC rule requires companies that meet certain criteria to disclose in their reports the processing facilities in their supply chains. Moreover, as we have previously reported, stakeholders, including government and industry officials and representatives of the UN Group of Experts and an

⁴⁴In 2014, we reported that Commerce had not yet compiled a list of all conflict minerals processing facilities—smelters and refiners—known worldwide, required by January 2013 by the Dodd-Frank Act and we recommended that Commerce develop a plan to do so. Commerce concurred with this recommendation and has published lists of conflict minerals processing facilities in 2014 and 2015.

⁴⁵Pub. L. No. 111-203, § 1502(d)(3)(C).

NGO, indicated that a comprehensive list of conflict minerals smelters and refiners (processing facilities) would be very useful in the effort to ensure responsible sourcing of minerals in the DRC and adjoining countries. An industry group told us that the Commerce list is helpful because it is difficult to identify which facilities in a supply chain are truly processing facilities. We found that several companies cited Commerce's list as an information source in completing their 2015 SEC filings.

Some stakeholders told us that Commerce's lists of processing facilities are generally useful as references, but one stakeholder also said that he has found the lists confusing, in part because it is unclear whether they contain all known processing facilities worldwide and whether everything listed is in fact a processing facility. In 2014, Commerce reported 434 processing facilities worldwide, noting that it relied on five sources.⁴⁶ For its 2015 list, Commerce reported 312 processing facilities, based primarily on USGS data. Commerce reported that the agency used USGS as its primary information source because it believed that USGS was the best U.S. government source for this information; officials added that they also took steps to incorporate comments received in response to the 2014 list. USGS's definition of a conflict minerals processing facility differs from the definition used by CFSI, SEC, and OECD. USGS focuses exclusively on "primary processing facilities," which turn raw ore or concentrate into downstream products.⁴⁷

⁴⁶These five sources are USGS, GAO, LBMA, the Electronic Industry Citizenship Coalition/Global e-Sustainability Initiative, and the Dubai Multi Commodities Centre / World Gold Council. For this 2014 list, as well as the 2015 list, we did not determine whether identically-named processors with different roles or locations specified are distinct businesses, and so some processors may have been counted more than once.

⁴⁷USGS National Minerals Information Center specialists (commodity and country) said that they sought to identify facilities engaged in the critical processing step(s) or the point at which ores and/or concentrates are transformed to a downstream product. These officials excluded from the list facilities that exclusively use secondary materials (scrap) or downstream intermediate or finished products as their feed material. USGS officials identified these facilities as the point at which products lose their direct link to the mine or country of origin and are marketable as distinct intermediate or final products.

Commerce Has Not Developed Plans to Assess or Advise Audits of Conflict Minerals Filings

As of July 2016, Commerce had not submitted to Congress a report that includes an assessment of the accuracy of IPSAs and other due diligence efforts described by the Dodd-Frank Act conflict minerals provisions as well as recommendations for improving the accuracy of the IPSAs, as required by the Dodd-Frank Act⁴⁸—nor had it developed a plan for doing so. Generally, as detailed by the SEC’s final rule, the IPSA’s objective is to express an opinion or conclusion as to whether the design of the issuer’s due diligence measures conforms with, in all material aspects, the criteria set forth in the due diligence framework used by the issuer and whether the issuer’s description of the due diligence measures it performed is consistent with the due diligence process that the issuer undertook.⁴⁹ The Dodd-Frank Act required Commerce to submit an annual report starting in January 2013 that includes, among other things, its assessment of the accuracy of the IPSAs and other due diligence processes described by the conflict minerals provisions of the act that are conducted by SEC reporting companies. Additionally, the act requires Commerce’s report to include recommendations for the processes used to carry out such audits, including ways to improve the accuracy of the audits and establish standards of best practices.⁵⁰

Six companies filed IPSAs as part of their 2015 reports to SEC, while four did so in their 2014 filings.⁵¹ However, as of July 2016, Commerce officials said that they had not yet assessed these IPSAs for accuracy. After several months of GAO requests for a meeting on this topic, Commerce officials stated in March 2016 that they had established a

⁴⁸Pub. L. No. 111-203, § 1502(d)(3). Specifically, Commerce is to assess the accuracy of the IPSA and other due diligence processes described under section 13(p) of the Securities Exchange Act of 1934 and develop recommendations for the process used to carry out such audits, including ways to improve the accuracy of such audits, and establish standards of best practices for such audits.

⁴⁹77 Fed. Reg. 56,274, 56,281.

⁵⁰In 2014, we reported that Commerce had not fulfilled these obligations. At that time, officials stated that Commerce was unable to implement these aspects of the act’s requirement because the SEC disclosure reports, which are needed for the assessment, would not be submitted to the SEC until June 2014.

⁵¹Commerce officials said that an additional 19 companies filed IPSAs in 2016. As discussed earlier, IPSAs are required for SEC-filing companies that choose to label their products as “DRC Conflict Free” in their disclosure. In our sample of 100 reports from 2015, we found that two companies were required to complete an IPSA and that only one of these companies did so.

team to manage Commerce's responsibilities related to IPSAs earlier that month. They further stated that Commerce did not yet have the internal knowledge or skills to conduct reviews of IPSAs or to establish best practices. Commerce officials said that, as of July 2016, they had conducted an outreach effort to identify best practices in the audit community relevant to their conflict minerals requirements and to enlist the collaboration of agencies with knowledge and expertise in this area.

Federal internal control standards state that management should complete and document corrective actions to remediate internal control deficiencies on a timely basis and communicate the corrective actions to the appropriate level. These standards also state that management should recruit, develop, and retain personnel with the knowledge, skills, and abilities necessary to achieve the entity's objectives. Commerce officials said that they had not yet developed a plan with specific steps and timelines to meet their statutory obligations, but planned to do so following their outreach effort to the audit community. These officials added that they would conduct a review based on the 19 IPSAs filed in 2016. Commerce has not yet begun to assess other due diligence processes as required by the disclosure rule; officials noted that the scope of non-IPSA due diligence processes is much larger and that, while it is working on a plan, Commerce currently lacks the necessary staff and expertise. These officials said that, as of July 2016, Commerce was exploring the option of working with the private sector to help fulfill these requirements. Until Commerce fulfills these requirements, SEC-filing companies may face additional challenges. For example, according to one independent private sector auditor we spoke with, because of the uncertainty about IPSA requirements and best practices, some consulting firms were misrepresenting the scope of IPSA services that are needed for compliance in order to justify excessive fees for SEC-filing companies.

Conclusions

The U.S. government, the international community, and industry stakeholders continue to address the long-running humanitarian crisis, including sexual violence, perpetrated in part by armed groups who profit from the exploitation and trading of conflict minerals in eastern DRC. As we have previously reported, section 1502 of the Dodd-Frank Act and the actions it requires of U.S. agencies are part of the U.S. policy response to the crisis. Although our reviews of the first two annual filings by companies in response to the SEC disclosure rule indicate some progress in companies' efforts to comply with some key provisions of the rule, they also indicate that companies continue to face some challenges in their supply chain due diligence efforts. Actions undertaken by U.S.

agencies to address their requirements under the act could facilitate the reporting companies' ability to comply with the SEC rule. As noted in this report, Commerce is required under the act to submit, starting in January 2013, an annual report that includes, among other things, an assessment of the accuracy and recommendations for improvement of the IPSA described by the act that are filed by relevant companies with their conflict minerals report. The agency has, so far, not assessed or submitted a report on any IPSAs, despite acknowledging that 29 companies have filed IPSAs with their disclosures between 2014 and 2016. Following repeated GAO inquiries about the status of the IPSA assessments, Commerce officials have yet to estimate when they will assess the IPSAs because, as they stated, Commerce does not yet have the knowledge or skills to conduct IPSA reviews or establish best practices. Without these assessments, Congress lacks needed information on the accuracy of the IPSAs and other due diligence processes used by filing companies. Additionally, these filing companies lack information about best practices for responding to the conflict minerals rule that, according to SEC, was intended by Congress to reduce violence in the region.

Recommendation for Executive Action

To improve the effectiveness of the SEC's conflict minerals disclosure rule, the Secretary of Commerce should take the following action:

Submit to the appropriate congressional committees a plan outlining steps that Commerce will take, with associated time frames, to

- assess the accuracy of the independent private sector audits (IPSA) and other due diligence processes described under section 13(p) of the Securities Exchange Act of 1934;
- develop recommendations for the process used to carry out such audits, including ways to improve the accuracy of the audits and establish standards of best practices for such audits; and
- acquire the necessary knowledge, skills, and abilities to carry out these responsibilities.

Agency Comments

We provided a draft of this report to SEC, State, and Commerce for their review and comment. In its written comments, reproduced in appendix III, Commerce concurred with our recommendation and stated that it was working on completing a plan as described. SEC also provided technical

comments that were incorporated, as appropriate. State provided no comments.

We are sending copies of this report to appropriate congressional committees, the Secretary of Commerce, the Secretary of State, the Chair, Securities and Exchange Commission, and the Administrator, U.S. Agency for International Development. The report is also available at no charge on the GAO website at <http://www.gao.gov>.

If you or your staff have any questions about this report, please contact me at (202) 512-8612 or gianopoulosk@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. GAO staff who made key contributions to this report are listed in appendix IV.



Kimberly M. Gianopoulos
Director, International Affairs and Trade

List of Addressees

The Honorable Thad Cochran
Chairman
The Honorable Barbara A. Mikulski
Ranking Member
Committee on Appropriations
United States Senate

The Honorable Richard Shelby
Chairman
The Honorable Sherrod Brown
Ranking Member
Committee on Banking, Housing, and Urban Affairs
United States Senate

The Honorable Orrin G. Hatch
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The Honorable Ron Wyden
Ranking Member
Committee on Finance
United States Senate

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The Honorable Maxine Waters
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The Honorable Edward Royce
Chairman
The Honorable Eliot Engel
Ranking Member
Committee on Foreign Affairs
House of Representatives

The Honorable Kevin Brady
Chairman
The Honorable Sander Levin
Ranking Member
Committee on Ways and Means
House of Representatives

Appendix I: Additional Information Available on Rate of Sexual Violence in Eastern Democratic Republic of the Congo and Adjoining Countries since GAO's August 2015 Report

Since we reported in August 2015,¹ we have not identified any new, completed population-based surveys related to sexual violence in the Democratic Republic of the Congo (DRC), but we did identify a recently issued population-based health survey containing information on sexual violence in Rwanda. We also identified population-based surveys related to sexual violence that are underway or planned in other adjoining countries and some new, additional case file data on sexual violence in the DRC. However, as we reported previously, case file data on sexual violence are not suitable for estimating an overall rate of sexual violence.²

No New, Population-Based Studies Provide Additional Data on Sexual Violence in the DRC; Study with Sexual Violence Data for Rwanda Was Recently Issued, and Studies for Other Adjoining Countries Are Underway or Planned

Although we found no new, population-based surveys on the rate of sexual violence in the DRC since last year's report, we found that ICF International has recently issued results from a survey for Rwanda and that surveys for Uganda and Burundi are underway. We previously reported that population-based surveys are more appropriate for estimating the rate of sexual violence than case file data because population-based surveys are conducted using the techniques of random sampling, and their results are generalizable.³ However, there are limitations and challenges to using such surveys to gather data on sexual violence and estimate the rate of such violence. Limitations include undercoverage caused by poor infrastructure and insecurity, which can limit access to some areas, and underreporting, as survey response rates partly depend on whether or not sexual violence victims are willing to discuss such difficult experiences. In addition, if large sample sizes are required, the result can be higher survey costs.

2016 Demographic and Health Survey of Rwanda

Results from a Demographic and Health Survey (DHS) of Rwanda were published in May 2016, covering data collected from November 2014 to April 2015.⁴ An ICF International analysis of the 2014-2015 survey data

¹GAO, *SEC Conflict Minerals Rule: Initial Disclosures Indicate Most Companies Were Unable to Determine the Source of Their Conflict Minerals*, [GAO-15-561](#) (Washington, D.C.: Aug. 18, 2015).

²GAO, *The Democratic Republic of Congo: Information on the Rate of Sexual Violence in War-Torn Eastern DRC and Adjoining Countries*, [GAO-11-702](#) (Washington, D.C.: July 13, 2011).

³[GAO-11-702](#).

⁴National Institute of Statistics of Rwanda, Ministry of Health, and ICF International. *Rwanda Demographic and Health Survey 2014-15: Key Indicators* (Rockville, Maryland: 2016).

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found that, in Rwanda, 7.6 percent of women and 1.2 percent of men, ages 15-49, reported that they had experienced sexual violence in the 12-month period preceding the survey, while 22.4 percent of women and 5.1 percent of men reported that they had experienced sexual violence at some point in their lifetime. The DHS was designed to provide data across Rwanda's health programs and policies, using indicators such as fertility, sexual activity, and family planning. The DHS final report stated that both women and men in the study were asked questions about both spousal violence and violence by other family members or unrelated individuals, including sexual violence. The DHS data collection was conducted by the National Institute of Statistics of Rwanda, with ICF International providing technical assistance and with the support of the Rwandan Ministry of Health as well as foreign governments and international and nongovernmental organizations (NGO).⁵

The 2014-2015 DHS survey of Rwanda is the third such survey conducted by Rwanda's National Institute of Statistics that has yielded nationwide information on sexual violence rates in Rwanda, but it provides only a limited basis for comparison over time.⁶ The more recent of the prior DHS surveys was published in February 2012, and data collection was conducted from September 2010 to March 2011.⁷ According to the 2010-2011 survey data, 22.3 percent of women nationwide, ages 15-49, reported having experienced sexual violence at some point in their lifetime. That is similar to the 22.4 percent of women from the 2014-2015 survey. The 2010 DHS did not report on the percentage of men who reported ever having experienced sexual violence or on the percentage of women or men who reported having

⁵The funding for the Rwanda DHS was provided by the Government of Rwanda, the U.S. Agency for International Development (USAID), the One United Nations, the Global Fund to Fight AIDS, Tuberculosis and Malaria, World Vision International, the Partners in Health, and the Suisse Development Cooperation. ICF International provided technical assistance through The DHS Program, a USAID-funded project providing support and technical assistance in the implementation of population and health surveys in countries worldwide.

⁶Rwanda DHS or interim surveys were also conducted in 1992, 2000, 2005, and 2007-08.

⁷National Institute of Statistics of Rwanda, Ministry of Health, and ICF International. *Rwanda Demographic and Health Survey 2010* (Calverton, Maryland: 2012).

**Additional Population Surveys
of Uganda and Burundi Are
Underway or Planned**

experienced sexual violence in the 12-month period preceding the survey and therefore no comparison is possible for those indicators.⁸

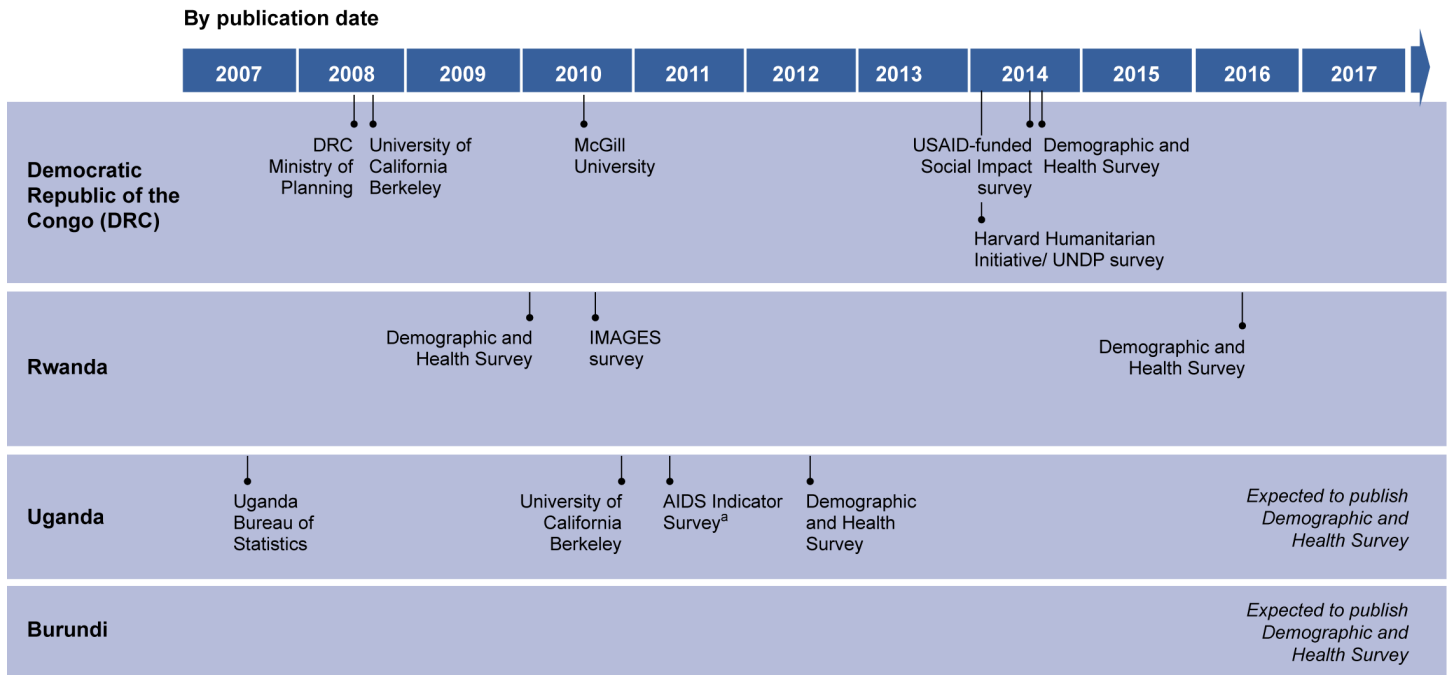
Population-based surveys are also underway or planned by ICF International in Uganda and Burundi. According to ICF International, fieldwork for the 2016 Uganda DHS is planned for fall 2016, with completion estimated in December 2016 and the final report expected in October 2017. According to ICF consulting officials, the Burundi DHS was on hold because of the political situation and instability. They decided in April 2016 to resume the survey and have planned a pretest for June 2016 and data collection from September to December 2016. They estimate completion by December 2017.

Figure 9 shows the anticipated timeline of population-based surveys on sexual violence that are currently underway or planned in the DRC, Rwanda, Uganda, and Burundi. It also shows the publication dates for population-based surveys that provided data on the rate of sexual violence in eastern DRC, Rwanda, and Burundi that have been published since we started reporting on sexual violence in the region in 2011.

⁸The 2005 DHS provided sexual violence data only for women who had experienced sexual violence perpetrated by their (last) husband/partner.

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Figure 9: Timeline of Population-Based Surveys Estimating the Rate of Sexual Violence in Eastern Democratic Republic of the Congo (DRC), Rwanda, Uganda, and Burundi



Source: GAO analysis. | GAO-16-805

Some Additional Case File Data on Sexual Violence Have Become Available since GAO's 2015 Report

Since GAO's 2015 report, the Department of State (State) and one United Nations (UN) agency have provided additional case file data on instances of sexual violence in the DRC and adjoining countries. State's annual country reports on human rights practices⁹ provided information pertaining to sexual violence in the following countries:

- DRC.** State's report found that the DRC state security force, rebel and militia groups, and civilians perpetrated widespread sexual violence. The UN registered 427 victims of sexual violence during attacks on villages from January to December 2015. These crimes were sometimes committed as a tactic of war to punish civilians for perceived allegiances with rival parties or groups. The crimes

⁹U.S. Department of State, Bureau of Democracy, Human Rights, and Labor. *Country Reports on Human Rights Practices for 2015*, accessed May 31, 2016, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm#wrapper>.

occurred largely in the conflict zones in Nord-Kivu Province but also in provinces throughout the country.

- *Burundi.* Centre Seruka, a clinic for rape victims, reported receiving an average of 120 new rape cases per month until April 2015, after which insecurity made obtaining case numbers impossible. The clinic treated 545 new cases of sexual assault, of which, reporting indicated men in uniform committed 14 and armed men committed 24. In addition, the government-operated Center Humura in Gitega received 545 cases of sexual and gender-based violence between January and September 2015.
- *Uganda.* Rape remained a serious problem throughout the country, and the government did not consistently enforce the law, according to State's report. Furthermore, although the government arrested, prosecuted, and convicted persons for rape, State's report found that the crime was seriously underreported, and that authorities did not investigate most cases. Additionally, the report stated that police lacked the criminal forensic capacity to collect evidence, which hampered prosecution and conviction and that the 2015 police crime report through June registered 10,163 reported sexual offenses, of which 787 were rapes.

In addition, one UN entity reported case file information on sexual violence in the DRC, as described below:

- The UN Organization Stabilization Mission in the Democratic Republic of the Congo (MONUSCO) recorded 65 victims of sexual violence in conflict in eastern DRC between March 10, 2015 and June 26, 2015. Fifty victims were allegedly raped by elements of armed groups, with the Patriotic Force of Resistance in Ituri responsible for sexual violence against 33 victims, most of them gang-raped in several incidents in the DRC's Irumu territory
- In January 2015, MONUSCO recorded 15 cases of sexual violence in conflict in eastern DRC, including 8 cases in Nord-Kivu alone. The main perpetrators were elements of armed groups, who were reportedly responsible for sexual violence against 10 of the 15 women victims.

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As we previously reported, several factors make case file data unsuitable for estimating rates of sexual violence.¹⁰ First, because case file data are not aggregated across various sources, and because the extent to which various reports overlap is unclear, it is difficult to obtain complete data or a sense of magnitude. Second, in case file data as well as in surveys, time frames, locales, and definitions of sexual violence may be inconsistent across data collection operations. Third, case file data are not based on a random sample, and the results of analyzing these data are not generalizable.

¹⁰ GAO, *Conflict Minerals: Stakeholder Options for Responsible Sourcing Are Expanding, but More Information on Smelters Is Needed*. [GAO-14-575](#) (Washington, D.C.: June 26, 2014).

Appendix II: Objectives, Scope, and Methodology

To examine the second annual company disclosures filed with the Securities and Exchange Commission (SEC) in 2015 in response to the SEC conflict minerals disclosure rule, we downloaded the Specialized Disclosure reports (Form SD) and Conflict Minerals Reports (CMR) from SEC's publicly available Electronic Data Gathering, Analysis, and Retrieval (EDGAR) database on September 15, 2015. We downloaded 1,281 filings identified as Form SDs in EDGAR.¹ To review the completeness and accuracy of the EDGAR database, we reviewed relevant documentation, interviewed knowledgeable SEC officials, and reviewed prior GAO reports on internal controls related to SEC's financial systems. We determined that the EDGAR database was sufficiently reliable for identifying the universe of SD filings on September 15, 2015. We reviewed the conflict minerals section of the Dodd-Frank Wall Street Reform and Consumer Protection Act² (Dodd-Frank Act) and the requirements of the SEC conflict minerals disclosure rule³ to develop a questionnaire that guided our data collection and analysis of Form SDs and CMRs that contain the information disclosed by the filing companies. Our questionnaire was not a compliance review of the Form SDs and CMRs. The questions were written in both yes/no and multiple choice formats.⁴ An analyst reviewed the Form SDs and CMRs and recorded responses to the questionnaire for all of the companies in the sample. A second analyst also reviewed the Form SDs and CMRs and verified the questionnaire responses recorded by the first analyst. Analysts met to discuss and resolve any discrepancies.

We randomly sampled 100 reports from a population of 1,281 to create estimates generalizable to the population of all companies that filed. All estimates based on our sample have a margin of error of plus or minus 10 percentage points or less at the 95-percent confidence level. Because

¹The number of SD filings we downloaded from the public EDGAR site on September 15, 2015 varies slightly from SEC's reported number of 1,283 filings. Because companies can file amendments or request corrections to filings, any updates to SD filings made after September 15, 2015 are not reflected in our analysis.

²Pub. L. No. 111-203, § 1502.

³17 C.F.R. § 240.13p-1.

⁴For the purposes of this review, we collected data on company disclosures of their due diligence efforts, when available, even if the company did not report that it knew whether its conflict minerals originated from a Covered Country or from recycled or scrap sources after performing an RCOI.

we followed a probability procedure based on random selections, our sample is only one of a large number of samples that we might have drawn. Since each sample could have provided different estimates, we express our confidence in the precision of our particular sample's results as a 95-percent confidence interval. This is the interval that would contain the actual population value for 95 percent of the samples we could have drawn. We also attended an industry conference on conflict minerals and spoke with company representatives to provide additional perspective.

To examine the challenges that exist at the processing-facility level for companies performing due diligence as part of their conflict minerals disclosure process and the steps taken to mitigate these challenges, we reviewed academic and industry studies and conducted interviews with relevant companies and experts by interviewing a judgmental sample at industry events based on their availability and willingness to meet with us and by reaching out to companies and experts referred to us by subject matter experts. We also examined information about processing facilities, including due diligence problems associated with processing facilities, contained in SEC filings that we reviewed as described above. In addition, based on a number of considerations such as preliminary research indicating a high concentration of processing facilities and other mid-supply-chain companies, as well as geographic proximity and recommendations from Department of State (State) officials, we traveled to China, Malaysia, and Singapore and interviewed representatives of numerous processing facilities, commodities exchanges, and industry groups to ask them about these risks. We assessed information from the United States Geological Survey (USGS) and other sources to develop a general framework for processing tin, tantalum, and tungsten to inform our questions to these industry groups.

To examine actions that Commerce has taken regarding its conflict minerals-related requirements under the Dodd-Frank Act, we interviewed Commerce officials and reviewed relevant documentation and reports. We discussed these Commerce reports where appropriate in our interviews with companies and other industry stakeholders.

In response to a mandate in the Dodd-Frank Act that GAO submit an annual report that assesses the rate of sexual violence in war-torn areas of the Democratic Republic of the Congo (DRC) and adjoining countries, we identified and assessed any additional published information available

on sexual violence in eastern DRC, as well as three adjoining countries that border eastern DRC—Rwanda, Uganda, and Burundi—since our August 2015 report on sexual violence in these areas.⁵ During the course of our review, we contacted researchers we interviewed from our prior review on sexual violence rates in eastern DRC and adjoining countries. We also requested information from the United Nations Fund for Population Activities, the United Nations High Commissioner for Refugees, the United Nations Special Representative of the Secretary-General on Sexual Violence in Conflict, and the United Nations Children’s Fund on sexual violence data from the region that became available since our prior review. In addition, we reviewed relevant reports from the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo. To determine the status of Demographic Health Survey (DHS) reports for the countries, we reviewed completed reports and corresponded with officials at ICF International, a firm providing technical assistance for survey design and implementation.

We conducted this performance audit from September 2015 to August 2016 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

⁵GAO, *SEC Conflict Minerals Rule: Initial Disclosures Indicate Most Companies Were Unable to Determine the Source of Their Conflict Minerals*, [GAO-15-561](#) (Washington, D.C.: August 18, 2015).

Appendix III: Comments from the Department of Commerce



THE DEPUTY SECRETARY OF COMMERCE
Washington, D.C. 20230

August 11, 2016

Ms. Kimberly M. Gianopoulos
Director, International Affairs and Trade
U.S. Government Accountability Office
441 G Street, NW
Washington, DC 20548

Dear Ms. Gianopoulos:

Thank you for the opportunity to review and comment on the Government Accountability Office's (GAO) draft report titled *SEC Conflict Minerals Rule: Companies Face Continuing Challenges in Determining whether Their Conflict Minerals Benefit Armed Groups* (GAO-16-805).

On behalf of the Department of Commerce, I have enclosed our comments on the draft report. The Department notes the generally positive tone of the GAO comments on our efforts to meet our statutory responsibility under Section 1502 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act). We believe this is merited in light of the heightened effort we have made over the past several months.

The Department concurs with the GAO recommendation that we submit a plan, with associated timeframes, outlining steps that the Department will take to meet our statutory obligations under Section 1502 of the Dodd-Frank Act, and we are working to complete a plan as described.

If you have any questions, please contact Maureen Smith, Director, Office of Supply Chain, Professional and Business Services, International Trade Administration, at (202) 482-2240.

Sincerely,

A handwritten signature in black ink, appearing to read "B.H.A.", with a long horizontal line extending to the right.

Bruce H. Andrews

Enclosure

Appendix IV: GAO Contacts and Staff Acknowledgments

GAO Contact

Kimberly M. Gianopoulos, (202) 512-8612 or gianopoulosk@gao.gov

Staff Acknowledgments

In addition to the individual named above, Godwin Agbara (Assistant Director), Jeffrey Baldwin-Bott (Analyst-in-Charge), Debbie Chung, Karen Deans, Neil Doherty, Justin Fisher, Andrew Kurtzman, Jill Lacey, Grace Lui, and Jasmine Senior made key contributions to this report.

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