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WHAT YOU DON'T KNOW ABOUT DODD-FRANK

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OPENING REMARKS:

THE HONORABLE JIM MCDERMOTT (D-WASH.)
United States House of Representatives

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PANEL 1: SECTION 1504 - THE EXTRACTIVE INDUSTRIES DISCLOSURE

Moderator:

SIMON TAYLOR
Founding Director, Global Witness

Panelists:

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LUNCH KEYNOTE

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PANEL 2: SECTION 1502 - THE CONFLICT MINERALS PROVISION

Moderator:

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Panelists:

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Counsel, International Trade Regulation and Sourcing
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MARK TAYLOR
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DELLY MAWAZO SESETE
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Founder of CREDDHO

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Director of Corporate Responsibility, AMD

CLOSING REMARKS:

THE HONORABLE BENJAMIN CARDIN (D-MD)
United States Senate

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P R O C E E D I N G S

MR. KAUFMANN: Good morning, everybody. I see that some people are still arriving. Please take a seat. It's very special to have you all here today for what we expect is going to be an exciting day. And it's certainly going to be very, very interactive where we're going to have a serious discussion on the challenges, on the prospects, on the great opportunities by this new legislation; recent, in terms of its passage, still with many challenges of implementation in terms of the Section 1502 and 1504 of Dodd-Frank.

My name is Daniel Kaufmann. I'm a Senior Fellow at Brookings. I've spent a long time at the World Bank before and have the honor to co-sponsor this with Global Witness, Simon Taylor will come and introduce himself very briefly, but then we have the Honorable Jim McDermott here, who will be introduced by Simon who will kick off this event with his remarks. And he has just kindly suggested that he's prepared to take a couple of questions or so. And then we'll get going with both panels; first the 1504 and second the 1502.

And you are all experts on this issue, so I'm going to save time and not begin discussing what this is all about. But basically, I just wanted to welcome you all. Hope you have all the materials and have also the bios. So as to save time, we're not going to have lengthy discussions on everybody's bio, so that we go straight to the substance, to the core of the discussion. We should have a fun day, and Simon, why don't you join me then.

(Applause)

MR. TAYLOR: Thanks, Dani. My name is Simon Taylor. I'm one

of three Founding Directors of Global Witness. I won't go into any details about us. You can find all that kind of thing in the bios.

You know, as Dani was saying, we want to have an interactive conversation. We want to air, you know, the keys points of concern, plus the key points in the other direction as well. We want to properly add a different issue surrounding both of these provisions. So the aim will be to keep points sharp and to the point and interactive between the panelists during the panel discussion, and then open it up to the floor so to have as many comments and discussions involving the floor as possible. So everyone should get their thinking hats on and think about questions at appropriate moments.

And with that, I'd just like to introduce Congressman McDermott. He's played a key role in bringing to us the 1502 provision of Dodd-Frank. Thank you very much.

MR. MCDERMOTT: You don't often get an introduction quite that to-the-point. All right. I thank you for it. I didn't want to hear my whole life again.

In order to understand the impact of what we're talking about today, I want you to all take a moment here, take out your tin, your tungsten and your tantalum and turn it off. Okay? I don't want to see anybody's head bobbing down looking at anything because they're all off, right?

And you get a feeling, when you think about that for a second, what we're actually discussing here and the impact of what we're discussing has on the world in which we now live.

I want to thank everyone from the Brookings Institute and the Global Witness who've put this together. Global Witness has championed the

responsible use of natural resources and they've done a great job on the issues that we're going to be talking about here today.

I'm also happy to read the Brookings Institution report on Conflict minerals. You all ought to take a look at it. It was thoughtful, balanced and contributed to the thinking on what is a very hard problem.

It's been 18 months since Dodd-Frank passed, and now is a good time to take stock of what's happened in all of that.

I would just say in passing, people would say, "What's his interest? Why is he interested in this business?" Well, I lost my heart in Africa in '61 when I went there to Ghana and spent the summer on Operation Crossroads. And then I was with the State Department living in Kinshasa in 1987/88. So I come naturally to understanding and having a great appreciation for Africa and the people who live there and work there and the problems they face.

Now, we passed this legislation. And I always tell people, no parties at passing legislation wait 'till the regulations come out. That's when you find out what's really going on. And we're pretty close to getting the regulations on conflict minerals, and a lot of big things have been happening on the ground on both these issues.

There's been a lot of information and misinformation. And that's why I welcome this kind of opportunity that's come out since the law has been passed. And one of the greatest challenges is educating the public.

In modern times, I think transparency and accountability are everything. And my belief is that honest prophets can live along side social justice. There is no reason why you can't have both. And that's what these

sections of the bill are really all about: informing the public, informing investors and being honest about how some natural resources, which are the patrimony of some of the poorest people in the world, are being accessed and used.

The energy and mineral section in Central Africa are some of the last bastions of whole state black-market corruption in the world. For the natural resources in some parts of the world, we have some framework, some set of laws that we have to work with. We have some problems in many places, but nothing like Central Africa. In Central Africa we simply are blind. We are in the dark as to what's happening.

The energy transfers and Conflict minerals provisions in Dodd-Frank are different from each other, and you'll hear us talk first about minerals and then later about transparency. But the provisions were debated and shaped for years in congress, and that's their similarity. That's why they're here on this stage today. One is 1502 in the bill and the other is 1504, but they're very similar in the fact that they went through a long process.

Africans themselves, companies, investor groups, natural resource experts and advocacy groups toiled away for several sessions. These are not new ideas that sprang up out of nowhere in the middle of the Dodd-Frank Bill. They had been coming through the congress gradually over the last several years before that. And we've learned quite a few things since passing the law. And in general, I don't mind saying we were right.

Due-diligence is not new. The supply chains from minerals are not too complex to figure out. It is possible to mine minerals in a profitable conflict-free way in Central Africa and companies will do the right thing.

When you use the lever of commerce when money's at stake -- you know, a friend of mine once said, "Well, if it's a matter of principle and money, go for the money, okay?" So when you use money, behavior by people on the ground changes. Governance gets better.

In the case of conflict minerals, we know that breaking up a multibillion-dollar black-market was going to disrupt thing on the ground. I mean, you have to be naive or stupid, one or the other, to not know that that is going to be one of the consequences of what happens. And there have been remarkable changes.

But a more transparent market for minerals, more shared benefits for mining activities shared by the population, less corruption, more revenue distribution, a more stable supply, all these benefits in my view outweigh the cost of some painful transitional unemployment and some folks migrating.

We also knew there would be fierce reaction by the interest that benefit from the status quo. Status quo never wants to give up anything. They never voluntarily say, "Okay, we quit. We'll give it. We'll do it."

Change in company behavior, change in less developed countries, dealing with issues of governance, economics, violence and children's rights, these are complicated and hard issues to deal with. And dealing with them in a piece of banking legislation is even more complex, as you can guess.

As many of you know, there have been a lot of comments on the proposed regulations, and this is always where the fun begins in Government. You pass the law; they put out the proposed regulation and then you get the comment period. Well, there have been lots of comments. Some say it's too

complicated, and others say that what we call bribery is really cultural practice. Others say that the kind of change these provisions are causing will hurt the people on the ground too much. It reminds me of those stories about -- being a child psychiatrist, I often think of, you know, the porridge is too hot and the porridge is too cold and --

Well, when you write a piece of legislation, you're always going to get people telling you that you've done -- "If you just put it over here or put it over there --" Well, we're putting it in and we're going to make it work.

Now, I want to read one piece of commentary to you, just one of the voices against change, someone who said action will do more harm than good. I'll read it to you and you can guess when it was written.

"I yield to no-one in my abhorrence of what's going on, but it must never be forgotten what the road to hell is paved with. Good intentions are scarcely enough, and we must always be careful that in trying to do good, we won't do harm instead. The object of the new crusade is presumably to help Africans, but what will be the impact of taking action? The result will be loss of jobs for the oppressed people. The impact on wages and working conditions would be particularly severe. In short, the group we are most trying to help by our well-meaning intervention will be precisely the ones who lose the most.

And, as on so many other occasions, doing good for becomes doing harm to. Taking action would injure, and first

and foremost, the black workers in the gold mining industry."

Well, you now know, the writers in talking about conflict minerals or about U.S. laws against corruption, he was writing about the vesting from South Africa in July of 1985. This is always the reaction to this kind of proposal.

He was saying that stopping apartheid should be done only as long as there's no painful change. Excuse me? How do you make change if you don't change something? And that's going to cause some pain for someone.

Now 1502 and 1504 break ground. They are modern transparency measures that require honesty and they allow corporate boards, investors and the public to decide for themselves once they know. And they can decide what they want to do with that tin and tantalum that you've turned off.

Under these provisions, you have to be transparent. The reports have to be high quality. And if you don't report honestly, there are penalties. No other natural resource laws have put these three parts together so directly. There are complexities that need to be dealt with in the regulations, and the regulations need to come out soon.

The SEC knows that one of the biggest barriers to progress is the unissued rules. Everybody right now is out there trying to figure out, "Well, what will the rules be and how -- and what should we do?" So getting them out there and letting people begin to react to them is essential if you're going to figure out what the problems are and how you improve what we hope will be a useful process.

Now I'm looking forward to the good panelists you have here today to give us some updates on diverse perspectives. I'm particularly happy to see

people from companies and civil society and African countries on the same stage working together.

I'd especially like to thank AMD and General Electric and other companies like KEMET and Motorola who have done great work. They haven't stood around and said, "We can't do it. Oh, it's too much trouble." They just went out and did it. And that's really what I want to commend has been the behavior of the companies who have stepped forward and said, "This is right. It is social justice and we don't want to mine our tin or tantalum or whatever on the backs of slavery and rape and whatever pillage has gone on in Central Africa.

I have good friends running a hospital in Goma called HEAL Africa. Oh, and I've been there several times. I actually went to college with a guy who's funding a lot of it, and I've known that situation there for a long time. And this bill is bringing about change on the ground in Africa. So I welcome your questions. I would be glad to take a few.

I've got to run up to the house and start voting on God knows what to save the republic, but I'd be glad to try and answer your questions about anything. Thank you.

(Applause)

MR. MCDERMOTT: Anybody?

MR. MOHIN: Hi, Tim Mohin from AMD. You mentioned the regulations with the SEC is really where the rubber meets the road. But you know, the law gave them 270 days to promulgate the regulations which, by my calculations, was April, and so we're a little bit overdue.

And the way the legislation is setup, there are some triggers

based on company fiscal years. So as we go over the calendar year, many companies are on a calendar year. We could see an entire year of delay for implementation. Can you comment a little bit on where the SEC is and why we've seen such a delay?

MR. MCDERMOTT: Well, I think that -- first of all, the SEC -- we've met with all the commissioners and talked with them to tell them what we were thinking about in the congress, so I have a feeling about the commissioners. And by all statements, I would say they are working diligently on bringing this about.

It is obviously not an easy thing to do to try and change corporate behavior by one little segment in a law where people have been operating for a long time with impunity. And so, I think that -- I would like to have had the regulations come out the week after the bill passed, but on the other hand, I'm experienced enough to know it takes a while.

I expect very shortly we will have a set of regulations. And I applaud the SEC for their work and their careful attention to what people are saying; no knee-jerk reactions.

You know, what we're going through in Washington right now is, we don't need regulation, right? I mean that's the theme song of a whole chorus up on Capital Hill. But anybody who's been around or knows anything or tried to do anything, no matter whether you're conservative or liberal, you know there have to be rules. And I think the SEC has done a good job and I think they will come out with a good set of rules shortly. In the back? Talk loud because I've got ears. Oh, good.

MS. KAYATANI: Deborah Kayatani (phonetic) from Democracy Worker GKnot Foundation (phonetic). I had a question. In your experiences, have you or either of you seen a pattern of activity that might -- if you've explained it for a little bit -- might help people identify it and write laws or promote legislation that would red-flag this activity that is parallel to human trafficking, exponential exploitation or the simple routines of a narcotics trafficking route that may or may not have come from pre-apartheid South Africa?

MR. MCDERMOTT: I think that one of the interesting things about a bill like this -- and I did not take enough time because I was told I should limit this to a certain amount of time -- there are a lot of people to thank who put this together. This was not Jim McDermott. It wasn't Dick Durbin. It wasn't Sam Brownback. There are a whole lot of democrats and republicans who worked on this whole issue.

And I think that, when you're trying to bring about social change in this kind of situation, you always have to build coalitions and educate people about the fact, because if you were to use our television as the main source of information for most people in this country, which it is, most people have no idea of the civil war that's been going on in Central Africa, the four or five or six or seven million people who died since Rwanda and all of what's going on.

So there was an educational process that needed to be done about the folks that had left Rwanda and were over in Congo and Eastern Congo. The Kivu area, it's not connected in anyway except on the map to what's going on in Kinshasa. I mean, Kinshasa can say whatever they want, but it isn't going to affect very much of what's going on because there's no roads. There's

no communication.

So you have to let people begin to understand what a chaotic place this really is that we are then using to our financial advantage, that we can go in and use this process, this black market that's going on there to tremendous profits. I mean, it's the best --

It's a lot better to buy that stuff from those people if you're talking about money, than it is to talk about buying it in Australia or a whole host of other places it might be bought. So you have to do some education, because people say, "Well, how is this going to work? I mean, how will it work?" Well, then we had Kimberly Dinus (phonetic). So you have, "Oh, now I see how economic forces can we used."

And I think that that's the process whenever you're trying to do social change, whether you're talking about sexual trafficking or whatever you're talking about. I mean, the trafficking of women is another issue, and we haven't figured out quite how to do that, but there are some of us who are very concerned about it.

In my aids work in Africa, I saw the trafficking and I actually was involved in a movie called, The Day My Gods Died, because -- about the selling of women in the pile for \$50 to a contractor so the father can buy a refrigerator and his daughter winds up going to Dehli thinking she's going to be a secretary, that kind of stuff -- how you stop that, how you intervene in that is really very difficult to figure out, but it's only by educating people. And the organizations like Global Witness are useful because they do that education and get people sensitized to what's happening here.

We could not have passed this bill without the effort of NGOs that were sensitizing people all over the place to what they were holding in their hands when they were sitting looking at their Blackberry. And I think that that is why it's no one person, no one group gets the credit. It's really a combined effort to make something like this happen. Yes?

MR. BILONESS: Hi. My name's Sam Biloness (phonetic) and I'm with Amnesty International USA. And I'd like to get your perspective as a legislator on all the campaigning that's been around, both grassroots, grass-tops to bring about measures tackling conflict minerals. And I'd like to get your perspective as a legislator as to, you know, what's worked, you know, what's working now and what you think will work to make sure that this is seen all the way through to completion.

MR. MCDERMOTT: Well, I said it earlier, but I'll emphasize it. I have said to the groups -- because, you know, I understand how hard it is to put a coalition together of grassroots people. Politicians do it all the time. We crank up our campaigns and then the election comes, and then have a big party and that's the end, right?

So in this issue -- and I have said to them over and over again -- is, it ain't over. It ain't over 'till the regulations come out. So you've got to keep talking and working and having seminars.

We had one at Theo Chocolate in Seattle and I've been continually going out into the community continuing to educate and stir the pot of folks who care about things like this. It is very hard with grassroots organizations to get the grassroots folks to really understand we got to keep doing it even

though the bill passed. We have to keep talking and having events and, you know, getting ladies to come from Africa.

And I just had a woman from the Glaser Foundation, brought one of their ambassadors in to talk about -- she's from Congo. And you do this kind of stuff and you send them out. They keep the fire burning because the status quo always wins when folks get tired, and that's really what the issue is.

And, you know, eternal vigilance is the price of liberty, an old aphorism that we sort of say, but it really is true on issues like this. If you're not vigilant -- and keep looking, and ask for, "Where are the reports, yes, where are the rules --," that kind of stuff should be going on. You're the American public. You have a right to ask your government, "Where is this? Why hasn't this come out?" And I exhort people to keep doing that, because otherwise, our efforts go down in flames.

There's lots of studies around here about -- I mean, the studies would be up to the ceiling of all the things that we ought to change, child poverty and -- you know, you can go on and on and on. But it only happens because the grassroots gets tired of pushing an issue. So thank you for your efforts.

(Applause)

MR. TAYLOR: If I could ask the panelists for the first panel to come up, that would be great.

Just as our panelists are making themselves comfortable, I'll just say a couple of words very quickly. I think it was a really good start to hear from the congressman about some of the moral aspects of what we are talking about here. I think a lot of the discussion about implementation has distilled itself down

to a matter of, you know, whether the lure is framed right, and in turn, how you then interpret it and operationalize it.

But in all of the conversation here, we should remember that there are issues of profound morality, human rights abuse, accountability in government and so. And that's actually what this whole discussion in the end is about. This is not an audit process.

So without further ado, I'll introduce the panelists. On the far side -- I'll just come across. I have Bennett Freeman. He's the Senior Vice President of Calvert Investments and he's been a long-standing person working on issues to do with transparency around the extractive sector.

To his right is Laurel Green. She's from Rio Tinto and she's come here to talk about the mining perspective. In the center, I have Isabel Munilla. She's the Director of the U.S. Publish What You Pay network, a group of organizations that comes to around 35 organizations now.

And on my right is Danny Kaufmann who has introduced himself before from Brookings. And so I think we'll move straight on to the panel discussion, or rather the start point, which is a short series of presentations for a few minutes only from each panelist. And then we will move on to a short panel discussion between us and then we'll open the floor up to everybody. Thank you.

MR. FREEMAN: Good morning. Thank you very much, Simon of Global Witness, Danny Kaufmann of Brookings for co-convening this event, and thanks to all of you for attending. It's a timely event, as Congressman McDermott indicated, as we're reaching the end game here of the SEC rule-making process.

I want to salute the efforts of Global Witness and Publish What

You Pay, in general, the constituent NGOs in that coalition that have done so much to campaign for and achieve both sections, 1502 and 1504 of Dodd-Frank that are our subject today. But I want to give you a view of 1504 extractive revenue transparency, in particular, on behalf of Calvert Investments.

And while we certainly share the broad objectives of the Publish What You Pay coalition in working to overcome the resource curse, the decades of corruption of bad governance that has impoverished people of otherwise resource-rich countries around the world, we do come to this subject from a distinct investor perspective. And that perspective rests on a very simple straight-forward proposition; transparency and disclosure of material factors and risk is the investor's best friend and ally.

We depend on such disclosure of risks in order to assess the viability in Calvert's case of holdings in the oil, gas and mining industry across several of our mutual fund portfolios. And until the passage of Dodd-Frank, and until the rule is completed and the requirements kick in, we have had inadequate disclosure, inadequate transparency that we need to properly assess those very, very complex significant factors and risks in our portfolios.

Specifically, when we look at oil, gas and mining, we see tax and regulatory risks at a country-specific and at an international level. We want to make sure that companies are taking those into sufficient account. This kind of disclosure will help us do that.

We are particularly seized -- and I mean seized -- with the degree to which lack of transparency and disclosure and the corruption that that lack permits and breeds, serves to disrupt supply and production of oil and gas and

minerals that the companies in which we may invest depend. And a case and point, I think the most spectacular and upsetting case and point is the fact that, for over a five-year period, beginning in 2005, Royal Dutch Shell lost about one-fifth of its production from the Niger Delta region of Nigeria due to political instability and violence with deep roots in corruption, bad governance, and most fundamentally, the lack of transparency in the oil resources that course below the swamps of the Niger Delta.

So, these factors matter tremendously; production to operation, but also to company reputations and, in turn, the reputations of investors in these companies. We need to know exactly what these revenue payments are, what they look like, which specific projects they're tied to so that we can be certain that we're taking those risks to the sufficient account as we decide whether to make an investment or to maintain an investment in a specific company.

And I can tell you that at Calvert Investments, our half million investors in the United States want to know. They count on us that we're on top of these risks and they want to be holding shares only in companies that are on top of these risks, as well, that are disclosing these revenue payments. And finally, with the enactment of this legislation, they will have that.

What we've done at Calvert is to make the case, I think, successfully to members of congress, congressional staff as to the materiality of these issues. We've been an active participant in the comment process run by the SEC.

We have rallied other larger investors than Calvert to this issue, including most significantly, TIAA-CREF out of New York State, CalPERS and

CalSTRS out of the State of California. And those large investors also understand the materiality of these risks. It's not just sustainable and responsible investors like Calvert who've cared about these issues as well; it's investors with hundreds of billions of assets at stake.

That's why we've also joined forces with investors in the U.K., elsewhere in Europe to make the case for similar legislation or regulation across the Atlantic and ultimately around the world. And we're very hopeful about the progress we've seen just in recent weeks in the EU with the Commission's draft which will achieve the same objectives as 1504.

And it's extraordinarily important that we see progress in other jurisdictions. As significant as the U.S. financial markets are, not all internal oil, gas and mining companies are listed here in the New York Stock Exchange or otherwise. And some of the companies, frankly, have used that lack of full coverage as an argument against this legislation. We need to answer that argument and help level the playing field, indeed, for companies and investors who are not listed in the United States by moving forward as quickly as possible over the next year or two in these other jurisdictions.

So let me conclude by saluting the SEC for what has been an extraordinarily comprehensive and diligent rule-making process and comment period over the last year or more now.

We do look forward to the swift conclusion of a comprehensive rule on 1504, and for that matter, on 1502, and for both rules to be fully consistent with the clear legislative intent of those sections of Dodd-Frank. So with that, I look forward, Simon, and to the rest of the panel, I hope, to a healthy

discussion and even robust debate with you today. Thank you.

(Applause)

MR. TAYLOR: Thank you, Bennett. Can I ask Laurel to come?

You can speak from there or --

MS. GREEN: I'm happy to speak sitting down, actually. First of all, thanks very much to Brookings and Global Witness for convening this panel. I'm very pleased to be speaking here today amongst a group of very eminent professionals representing a range of different views on this topic.

From the outset, let me say that Rio Tinto is very supportive of any initiative which aims to enhance transparency and governance, particularly in resource-rich nations. We've been supportive of this for some time. We are one of the foundation supporters of the EITI, the Extractive Industries Transparency Initiative, going back nearly 10 years now. And we support the adoption of that in all countries, and we are particularly active in the countries in which we operate to try and get those countries to be part of EITI.

As a company, we believe that transparency benefits us because it enables us to demonstrate that we're doing the right thing. Sometimes there's a lot of suspicion of resource companies that you are not contributing sufficiently in the countries in which you operate. And in fact, transparency enables us to demonstrate the contributions that we do make in the countries where we are operating. And it demonstrates the extent to which the various revenues that we contribute, largely through taxation, enables the economic development of those countries.

To this end, the last few years we've actually produced information

in various forms which outlines the tax payments that we've made in various countries. And in fact, this has increased. We started doing this about three years ago and it slowly increased over time.

And in fact, we now have this lovely booklet. And I brought a few along as well, but it's also available on our website for those of you who are more high-tech rather than paper-based. And what it does is it outlines the taxes that we pay in more than 25 countries in which we operate, which is the major ones in which we operate. It details, like our financial statements has all that information as well, but it also describes the various taxes. It gives you a bit of a breakdown on where we pay taxes, in which countries and what sort of taxes that we pay.

And in fact, one of the things that it demonstrates is that our taxation contribution is around 38 percent, which I think is more than a lot of people would consider, would be the case across the board. And so, that's actually been helpful in demonstrating in the various countries in which we operate, that we do contribute to the economies.

I think one of the things to remember with the range of legislation that's coming out is the purpose of what we are trying to achieve, and the underlying purpose is to increase that transparency and to foster better systems of governance.

And one of the things to remember is that -- as welcome as Dodd-Frank and other legislative initiatives are -- is that they do and can only tell part of that story because they only talk about what companies contribute.

And it's very important not to forget the other side of it, which is understanding once you've paid that money over, where does it go and what the

governments do with it. And that's why the EITI process is very important, because it has the other side of the equation. And what it also does is it's an interactive process where the various parties get together and discuss that.

And so, it's important that we don't lose sight of that, not to undermine what Dodd-Frank and other legislation does, but that the reporting is not an end in itself. And one of the key points about that is that we should make sure that this legislation and other types of legislation don't undermine practices like the EITI, which have those additional components. And so, some sort of recognition system that enables these different initiatives to coexist without having an ever increasing burden of reporting is important.

Along those lines, it's important that there's an ongoing cost benefit analysis in terms of the detail that's involved in reporting.

One of the things we're seeing from the EU legislation is there's a discussion around the level of reporting, and in particular, definitions of what a project is; and we're involved in discussions around those things at the moment.

On some of the definitions that are being proposed of projects, in some countries we would have 400 odd projects on which to report, and that would be incredibly burdensome for us.

What we do in this report is we've chosen our own level of \$1 million U.S., so that's the level at which we report. We feel that, for the size of the company at which we are, we think that's a good point and we've in fact encouraged that type of level or a million Euros in the various types of regimes.

But the difficulty is, if it becomes too small, you spend a lot of time just recording payments and you don't focus on what actually happens to that

money. And we think it's more important that the focus then goes on collecting the big picture story and then focusing on what actually happens to the funds once you pay it. So it's better to, I think, focus on where the money goes to and reporting at that type of level as opposed to, you know, getting down into such small levels.

MR. TAYLOR: Thank you, Laurel. I think you raised a very interesting point about, you know, both sides of the equation and also the materiality aspect, the size of what is it that constitutes a project, in terms of the definitions of the legislation we are talking about. We will return to these delightful themes as carry on in our discussion. So with that, over to Isabel. Hello, Isabel. Thank you.

MS. MUNILLA: Hi. Thanks, Simon, and thanks to Brookings and Global Witness for putting this together. It's an honor and a pleasure to be here with you to talk about such an important topic that the Publish What You Pay coalition has been working on for several years.

And I realize that we've spent a little bit of time giving just the overview of what 1502 is, but maybe I'll just introduce for those of you that aren't totally familiar with this, what 1504, the extractive industries payment disclosure provision actually does.

So what it does is it requires companies that file an annual report with the Securities and Exchange Commission to publish how much they pay to all governments to which they make payments to for the rights to extract oil, gas or minerals, so any payment. The law specifically requires taxes, royalties, fees, production entitlements and bonuses. It's specifically stated in the law. And this

is by country, by payment type and by project.

The companies have to make these reports every year in an interactive data format. And the intent of that is that it would create a database that can be read by other databases, so you could have a lot of analytics going on, automated analytics going on.

The companies are expected to do this in their annual report, and the rules require them to do this one -- after the rules are promulgated, they have one fiscal year to get their act together to do the reporting. So just for those of you that weren't familiar, that's the basic overview.

And included on the table outside, there is a Q&A, just to give you an overview of what the rules are, that goes over some of the basics and some of the questions about the history. I just wanted to give that quick intro because I think we might've missed that part.

So from Publish What You Pay's perspective, I did want to give a quick overview of the coalition. It's a global coalition. There are 600 NGOs. We are working in over 55 countries. There are 38 national coalitions. And what this is is a group of NGOs that have vastly different missions; some environmental, some fiscal administration, some humanitarian, but they want to work together on this issue of revenue transparency and transparency in the financial transactions between oil, gas and mining companies and governments. So what the Publish What You Pay campaign does is essentially organize the work of all of these organizations.

So, I lead the U.S. chapter where we're 38 organizations, about 2.5 million constituents here in the U.S. We've got religious groups,

environmental, a whole wide gamut that has been working since 2004 on the campaign to pass the Section 1504 of the Dodd-Frank law. Just a little bit of background for you.

So, I think what's important from our perspective -- and the reason why we're doing this is that, in many countries, obviously resources from oil, gas and minerals are not really meeting development needs. In many of these resource-rich countries, we have people living on less than \$2 a day and it's a lot of the reason why many of our coalition members are coming to this issue.

So this law has the endorsement of the global Publish What You Pay coalition, which I think is important to keep in mind, and I think we are committed to putting this data into action. So I think Laurel's point about what do we actually do when this information comes out and how do you make sure it actually leads to accountability is precisely the questions that we're trying to answer.

And we work on not just the revenue side -- the revenues coming in -- we look at government expenditure as well. So that's the law's key component to help us do that.

I did want to give just a quick overview of a little bit of history that this particular provision builds on a lot of passed policy and practice. So for example, there has been lots of good reporting and voluntary reporting by companies for many years now, both at the country level and at the project level, so it builds on that. It also builds on, for example, the IMF's Guide on Resource Revenues on which considers payment reporting and contract transparency as a best practice.

There have also been project payment disclosure requirements at the World Bank's IFC for the private sector financing that they give to oil, gas and mining companies. That's been in place for many years. And just recently this year, they adopted a contract transparency policy.

We have also the Hong Kong Stock Exchange which adopted a listing disclosure requirement before the Dodd-Frank Act was passed, and we've got the London Stock Exchange as alternative investment market as well, has a listing disclosure requirement. This requirement is an annual reporting requirement whereas those requirements are just at the time of listing.

And then, of course, we've got the Extractive Industries Transparency Initiative which is a tripartite initiative where industry, CSOs and governments sit at the same table, decide on payments to be reported. The companies disclose their payments; the government disclose their receipts; everyone sits at the table and comes up with a report that they make public, and we've been working on that since its inception.

We helped to found the initiative. We served on the international board and we serve in every EITI country, which is now up to 36, I believe. So we've got a big stake in making that work.

So I wanted to tell you that because I think that this law fits into a broader framework of these initiatives, and now we have EU rules that are more or less modeled on the U.S. rules with some distinct difference. So I think, in our view, this law complements all the work that's already been done. I mean, it absolutely complements the Extractive Industries Transparency Initiative. The EU rules that just came out specifically are meant to complement the EITI, and

those are written in there.

And I think what's great about these disclosure requirements is that, the EITI is an initiative that's voluntary for governments. Governments decide to sign up. It's very much based on the political will of the Government to allow the initiative to exist and to prosper, whereas mandatory disclosure requirements are not really affected by the sway of political will in a given country. So these laws are extremely important to make sure that there's a constant and reliable flow of data into some of these countries.

And in particular, I just want to mention there's a few countries where these initiatives are unlikely to take hold like Iran, Angola, Libya, Cambodia, Burma. And from our perspective, civil society cannot wait until their governments have enough political will to adopt a voluntary initiative around transparency. And so that's part of the reason why we're coming at this law and the reason why we supported it for so many years.

And lastly, I just wanted to say that there is an urgency here. These are nonrenewal resources. They are a public asset. There is a budget crunch everywhere. We're feeling it here. Everyone is feeling it, so this is a time to make the most out of these resources. It's urgent that the SEC promulgates its rules as soon as possible because citizens need to know what's happening with these funds so they can put them to work. I'll stop there.

MR. TAYLOR: Thanks, Isabel. And like our previous speakers, we'll come back to some of these points as we go. I'd like to hand it over to Danny.

MR. KAUFMANN: Thank you. Let me reveal my bias right away.

Unfortunately, I'm an economist, and so I will bring that perspective to this without knowing all the legal intricacies, but instead, having a few remarks about the issues of incentives and about the issue of importance of having evidence-based analysis and policy-making.

So I'll start with just a number, and that's 300 percent. And that's also biased because a coauthor of mine with whom we have worked for 15 years on governance indicators, that's the number we got when we asked the question, "What is the dividend of good governance for a country?" And on average, with all the data from around the world, 200 countries -- which is what we have been measuring on six governance dimensions, including issues of corruption, rule of law, transparency, human rights and so on -- a country that improves its governance in a realistic way, basically. And in two to five years, you can expect, in the long term, a payoff of 300 percent to go from \$5,000 per capita income to \$15,000.

So as an economist, it's very important to look at incentives and to expand Laurel's good presentation and question of cost benefit at the society level. Who are the losers? Who are the winners?

So first, the data is out there. More is needed very specifically about this legislation, but first let's look at the overall forest, and we see that there is an enormous payoff from improvements in all these dimensions of governance, of which obviously Dodd-Frank is only one part of the piece, as representative Dermott said.

And very important also to using this context and to have a look at the new pilot indicators -- not only the worldwide governance indicators, which

we have had already for 15 years and we traced every country of our time on six dimensions -- but more specifically, in terms of the challenges before us today, its revenue watch index that started basically in 2010, it's going to be another one in a year or so, which for over 40 countries, it rates basically their transparency in revenues from extractive industries.

And it's very sobering, but also hopeful to say that there are some countries that have made enormous strides in this context, including countries like Brazil, obviously Norway. Then, in the middle of the pack, Nigeria for a few years made significant changes to contrasting very much the countries that were at the bottom. In that list, Algeria, DRC, which is a major challenge. We'll discuss more of this afternoon -- Equatorial Guinea, Turkmenistan.

So basically, it's a very mixed picture where it's very important to differentiate, but also to realize that, yes, it can be done, and some countries, have been doing great efforts.

And at the end of the day, the citizens of that country benefit enormously when they see proof of governance. And again, I say that with some bias because I'm, myself, from emerging economy who subscribed to these tenants about 20 years ago or so and have made enormous strides, and that's Chile. And we also have extractive industries in copper.

So that's the first winner, basically. And I think -- well, at least from my perspective -- but I was very happy to also hear the perspective of the representatives, and yours is very important to keep in mind, and that's a 300 percent governance dividend.

Well, that's not to say that I'm not going to be a loser, and I think

it's very important to understand, for the political economy has changed and for the resistance of reform who the losers are.

And one that sometimes is forgotten for politically correct convenient reasons are corrupt politicians, which are -- and there are no countries immune to that, whether in the developing, emerging or investorized world, but the incidents of frequency and the extent also vary enormously. And we know that not only from our indicators, but from Transparency International analysis that just came out. So let's admit it: corrupt politicians have a vested interest in not having further transparency, which is absolutely crucial for misdeeds and for corrupt dealings.

I was very pleased to hear the views from Rio Tinto or from Bennett on Calvert. And it takes the case that the many enlightened companies - - this one sentiment, extremely important in the majority of the corporate sector -- particularly in some countries, would stand to benefit from that.

But I think it's very important from a dispassionate perspective, and I take it as a researcher analyst economist to also recognize that there are at least, at a simplistic level -- allow me to be simplistic -- there are at least two segments of the corporate sector: those that benefit and those that don't.

The ones that stand out to benefit a lot are those that are beyond notions of ethics and corporate social responsibility, those that their comparative advantage is because they are efficient, they are competitive, they are managerial, they're effective and that's how they compete in the marketplace.

But there is a non-(inaudible) segment of the private sector -- and I've gotten to know them very well working for 30 years in emerging economies

and development -- that thrives from rent-seeking. That they do not put, basically as a major strategy and effort, to engage in efficiency, productivity and innovation. And we have done a lot of work on capture and some corporates that engage in capture, and through that, the rent-seeking and so on.

And from recent research I've done with a co-author where we picked up 12,000 firms from around a dataset, 12,000 firms from around the world in collaboration with the World Economic Forum, their survey, basically we asked the question, what type of firms engage in bribery to get ahead, and nontransparent behavior, and what type of firms do not basically behave without bribing unethically. And there are kind of interesting findings.

Well first, it's not the majority around the world that suggest that they engage in bribery, but it's a very significant minority, between 30 and 40 percent. But when it's dealing in Angola, about 80 to 90 percent are saying that they are doing that. And I'm not talking about multinationalists alone, multinationally -- but it's also domestic firms. But when it gets to Norway or Chile, it's 7 percent.

So it's an extremely varied picture and we need to recognize that. And those firms that basically get -- they specialize in trying to get an obscure monopolistic deal where some bribes sometimes need to be paid or other favors exchanged. Obviously they stand to lose a lot from this type of transparency legislation and transparency measure.

And in terms of the ultimate cost benefit analysis that every firm is doing, whether implicitly or explicitly, at the end of the day, obviously, on the Rio Tinto and on the Calvert side, the benefit side outweighs the cost.

And I understand very well from Rio Tinto saying well, they don't want the cost to be stratospheric. I think it's a very legitimate point that the whole issue of, "Well, at what level of projects?" I think it's extremely important to have transparency at the project level. But if it's a \$20,000 project, whether -- we could argue and discuss whether it's one million, the cut, or it's 50,000 or a half billion. But I think that's a level of discussion that makes eminent sense, and that's the type of legitimate cost issue that should be part of the discussion.

But what's not part of the discussion -- because, obviously, it cannot be said publicly by any corporation -- is that some of them do operate with a different strategy, and they stand out a lot to lose in terms of monopolistic rights and special deals that they have, or sometimes on the taxation treatment.

I was very pleased to hear Rio Tinto saying 38 percent. It would be very interesting to have full disclosure from all companies, in terms of ultimately how much their tax intake is, including the use of transparenching and so on.

And the more that there is transparency, if the strategy is to engage and getting a lot of gains through that, the more that they see this is threatened. So that obviously needs to be recognized.

Let me finish now my opening remarks. I'm sure there's going to be much more discussion by mentioning also one caveat.

I go back to the beginning, to the 300 percent dividend, 300 percent dividend of good governance. The dividend of development, of growth, of incomes for a nation of good governance does not come from one piece of legislation alone. Obviously, (a) it has to be implemented effectively; but (b) as

crucial are the complementary measures. And there is a legitimate concern of some of the writings I have seen.

If this is a measure alone that doesn't get traction, at the end of the day -- but I'm very pleased from what I am reading, and we have heard it now that it's getting some traction in other countries too. And not only the U. I think it's very important to measure what's going on also in Korea, in Hong Kong. Even there are noises that Shanghai may be interested if the others do.

So it is this type of legislation, as we saw with FCPA, then going into OACD, takes time but it can create a dynamic result. So it's very important to think about the dynamics and the complementarital measure.

But also as important is, in terms of complementing it with supporting governments in their reform efforts towards better governance -- because at the 300 percent dividend, the impact of those reforms are going to come at the end of the day mostly through what the leaders within the countries do for their own countries, where this type of signal, this type of legislation can create a very important signal and dynamic.

Those states that they are still operating, totally misgoverned in an obscure way, likely be until very recently, obviously can benefit enormously from the signal, from the multinationals and others that want to operate.

So it's very important to use also these opportunities to engage with the recipient countries. Countries that are major producers in terms of governance reforms there, because it's only through the complementarity of the Dodd-Frank light and the measures taken by the country that ultimately the benefits are going to be reaped in full.

MR. TAYLOR: Okay. Thank you, Danny. I've written a whole bunch of notes up from different aspects of comments from our panelists. And what we're going to do now is have a little bit of an interactive discussion between the panelists for 15 minutes or so, and then we'll chuck it onto the floor and open it up to questions.

Just to kind of quickly sum up this sort of broad set of headings, different panelists have said different things. But in general, Danny just mentioned the issue that transparency, one provision, one lure is not enough. I think those of us who've been working within trying to get this lure in place in elsewhere recognize that, you know, having a 1504 or an EITI, for that matter, is not enough. It's but one component. It is an absolutely vital component, nevertheless, and there are a panoply of other measures that are necessary.

So, for example, some of you may be familiar with the recent seizure of the son of Equatorial Guinea's house in California, a house worth \$35 million. This person, of course, being the son of the president, has a unique access to funding, as you can imagine. But his fellow citizens, something like 70 percent of them live on a dollar a day. And yet, the per capita income of the country is equivalent to Denmark, which I think, quite nicely illustrates part of the problem we have, and also part of the problem with EITI.

EITI, as a tripartite operation involving companies, governments and civil society, is a fantastic initiative. The problem we have with it, though, is that when we are talking about countries like Ecuador, Guinea or Angola, we're not really in any hurry, I think, to imagine the leadership of those countries who see those countries as their primary cash-cow have any incentive whatsoever to

join the club and have themselves held accountable. So we need these additional mechanisms.

And on top of that, in terms of internationalizing it, obviously we need the wider implementation of 1504 type equivalence like those which Europe are considering at this time, plus other initiatives to disincentivized looting. The role of banks, for example, and handling dictator's loot is critical, as we've seen in stories around the Arab Spring more recently. So we can explore all of those in terms of the wider discussion if you like.

Project level disclosure; what does a project mean? You know, clearly I think none of us are interested in, oh, you know, \$10,000 payments to secure food for -- I don't know -- for a symposium or something; I mean, absolutely ridiculous.

I think we would collectively agree that we need to have meaningful project level disclosure, but why not at the concession level? You know. If a company owns 30 percent of an oil concession, wouldn't that be a sensible size disclosure, as opposed to just an aggregated figure where no one can any longer distinguish who paid what and on what basis.

And before we think that this is all about accountability in countries, we should also remember that there is a history of corporate involvement at different levels, different corporations in seriously bad practices.

You know, when we first started documenting this issue, we found subsidiaries of very large blue chip oil companies based out of tax havens where you can't really find out who owns them or how they operate shipping arms to Angola on both sides of the wall. You have to ask what is an oil company doing

that?

So for me, actually, some of this comes back to company accountability and the ways companies operate, and that comes to Danny's point about who the winners are and the losers are.

Surely we should be about seeking to reinforce the good practices and remove the capacity of the bad players to operate. And, you know, if we are talking about losses for those players, well, too bad. Maybe that's part of the problem and we should be open and honest about that.

I think I've said enough about that. With that, I'd like to sort of go on to some of the other legitimate concerns that some companies have put forward. And I think, to differentiate between some of the ones that we would consider quite legitimate concerns that we've, between us, made a good effort to address, versus those that essentially reconstitute old arguments that have been debated for many years now.

And perhaps, with that, we could start off with a discussion around what we mean by a project. Could we sort of unpack them a little bit. Perhaps, I could turn to my panelists to my left and turn just to say a few words about what is a meaningful project level disclosure that would address this problem and provide some clarity? Perhaps in order; Bennett, I don't know if you want to go first.

MR. FREEMAN: Sure. I mean, the key point here is that, with EITI, there is no requirement for project level disclosure, and in our view, the action is at the project level. It's not just with some big aggregated figure either for a single company in a single country or a combination of companies operating

a single country. We want to see that project level figure.

There is a legitimate debate, I think, about the materiality of a particular project, the amount of money involved. We at Calvert would prefer to see the most generous possible definition of a project to include projects that might even be only in the single digit millions. I don't think that we are terribly interested in -- you said this yourself, Simon, a couple of minutes ago -- in very, very small sums, whether for food for symposiums or less wonderful purposes even than that, but we do want to see this project level disclosure. It'll help us with the kind of risk assessment.

If I could just say something about EITI more generally, and that is a couple of points. One is, is that it's actually not a tripartite initiative. There are governments, companies and civil society represented, but also investors and very ably, first by F&C based in London, and currently by Standard Life based in Edinburgh. So there is that perspective at the table.

But I've got to tell you, I've really gotten impatient the last couple of years listening to companies make this argument that, you know, "We've already got EITI; why do we need mandatory disclosure --" and that mandatory disclosure will render EITI less or even irrelevant. And that's just a canard. I mean, we've got to call it what it is.

Without that project level disclosure, without a fuller range of countries participating, many significant omissions, as Isabel pointed out in the EITI process, and with a great significant and worrying number of the governments that are in the EITI process still not validated. We needed this jolt, this catalyst from mandatory disclosure.

I think that EITI is actually more important than ever, and I just reinforce Isabel's point that these are complementary mutually reinforcing initiatives. So with 1504, we get mandatory disclosure now from a big swath of companies. Yet EITI gives us not just a less expansive number of companies, but as significantly, maybe more significantly governments and civil society at the table. And from an investor's point of view, we have to attack this problem from all angles; civil society, governments and the investment angle.

MR. TAYLOR: Sorry, I didn't mean to pack you in with all the extractive companies as well. I was thinking of this kind of triangular presence, of course.

MR. FREEMAN: And actually, I would point out that there have been rifts between the company pillar and the investors within the EITI process on some very significant issues.

MR. TAYLOR: Sure, sure. And Laurel, you were talking about size of projects. And, you know, I know was on the panel, just to let people know, a few weeks ago with a colleague of Laurel's in Brussels, and this issue of project size came up. And I think we got close -- we didn't really have time to discuss it. I think that would be quite nice to see, you know, a little bit more about your view. What would constitute a workable project definition? Because I think that's some of the thing that's been lacking in this discussion really, from the company side.

MS. GREEN: Sure. It's actually a very challenging thing to do because it's -- I know it's often cited that, perhaps, people like using this as an excuse. But in fact, when you sit down and try and write a definition of a project,

what we as a company think of a project is often not a finite definition.

We call a project something in a particular location that's developing a particular resource. But, in fact, that project might constitute tens or hundreds of different licenses. So the formality around that project, trying to get something that's an excepted and an objective definition is a very, very difficult thing.

And in fact, we've been around with this. We've looked at it and tried to come up with, is there one thing that we can say; is it a permit that you received; is it some sort of approval; is it some sort of entity because, in fact, often, we have different operating entities in the same place. We have someone who owns something and someone who operates it.

And I think, for us, it comes down to the important thing of what payments do we make as a company in that country? Or it may be to a part, so it might be to a regional government, for example.

If you look at the intent of what you're trying to achieve, it's less about an individual project, I think, that people want to know, because I don't know that, for the people in country, it matters so much exactly where that money came from if you had two projects side by side. Do they really care? What they care about is the total.

So I think, what we're saying is, we want to capture everything. We don't have a problem with putting everything in one big bucket and saying, you know, "If the bucket comes to a certain amount, that's fine." It's about being able to reconcile that. And we might have one operation that has 10 different licenses or 100 different licenses. And we actually don't, in our accounts,

allocate for that internally, so it's actually very difficult.

The focus we like to have, which is actually getting away from the project, is trying to say, "Can we define it in some way about whether the money is received." Obviously, you account for the fact that it comes from these 10 projects, so you make sure that you've captured everything that happens in the country. But we think the important feature is who gets that money.

And so, perhaps, if it's paid to different parts of a country -- so if this amount goes to a sub-government, a regional government, and this amount goes to the national government, it's probably more of an important distinction than whether something came from this particular project versus another project that's 10 or 15 kilometers down the road. That's not particularly meaningful to the people in country that want to know how that money is spent and what benefit they're going to get from it.

MR. TAYLOR: If I can just come back on that, because I can see where you're coming from. I think what we're interested in is not creating ridiculous complexities that lead to micropayments that then someone has to add up, and it's just a complete nightmare. And there's thousands of different payments and I don't think that helps anyone.

But leaving aside the idiosyncrasies of your company, I would imagine that, you know, there will be mining operations in some countries which are just one mine obtained one time with one concession contract. To my mind, that's a project. They'll be other cases where the mine sort of extrapolates itself over a period of time.

Using your example just now, a few kilometers down the road, you

could imagine an exploitation starting here and 20 years later it's over here. And each one's subject to an additional project type issue, in terms of how do we define a project.

It seems to me, mining is different from oil quite fundamentally, and maybe here is an opportunity. I should just disclose something as well. We tried very hard to get some oil companies to sit on our panel, and we asked multiple directions and have not secured some. So, you know, people can read into that what they like. They wouldn't come.

I think it's a shame really, because I think there's a lot of discuss out there in the ether in various submissions to the SEC from the oil company perspective. It would've been really useful to be able to openly discuss the concerns from the oil side, but we can't do that.

Unless we are disappointed by that, what we've done is to have a look at some of the submissions that have been put into the SEC. In particular, I think the API's statements, the American Petroleum Institute provides a nice baseline of the concerns that have been specifically raised.

And so, in the absence of being able to put people on the spot and say, "Well, you say this but what about this --," what I can do is put some of these points to the panel here. I'll read them out verbatim from the API's submission and we'll provide url links for people to look up later, so you can see the wider submissions that, which in some cases, are quite substantial.

I have another API here, which runs to some 30 pages -- actually, a bit more than that. So there are loads of submissions you'll be able to see if you go to the SEC site. So --

MS. MUNILLA: Can I respond to this comment first?

MR. TAYLOR: Yes.

MS. MUNILLA: Is that okay?

MR. TAYLOR: Before we go onto this one.

MS. MUNILLA: Just on the --

MR. TAYLOR: Yes, of course. Yeah, go ahead. I was going to come to you on this as well, but go ahead.

MS. MUNILLA: Okay, sure. So just to -- so we don't --

MR. TAYLOR: Sure.

MS. MUNILLA: Just to respond to what we just discussed, from the Publish What You Pay Coalition, we believe that a project should be defined as lease, license or other concession level arrangement -- whatever is the legal agreement that gives rise to a payment.

And the reason why we want that is because typically governments track payments according to that agreement. So if the intent is to do that reconciliation, that's the best place to do the reconciliation. So we are really interested in what are the complexities of that definition, and then sort of what are some options and proposals, both for mining and oil sectors, to think about.

And we've asked companies to come back to us with some challenges and with some thinking on that. But that's the position we've taken because that's the mandate we've gotten from our friends in the field. And there are a couple of reasons why we need that and why project reporting is important, and why it complements the EITI.

So take for example a community. Down the street, there's an oil project or there's a mine. That local government that is responsible for the wellbeing of that community, that local government has to bear the environmental and social risk, and demographic risks and demographic changes that occur when a big project is put into their jurisdiction.

Many times, local government won't have the capacity or won't really want to take action to protect communities. So communities really want to know how much that particular project is generating for the local government.

In addition, many projects, according to their contracts, have to make a percentage contribution to that local community that's impacted. And the community -- unless I know the payment to the national government or unless I know the total payment that the company's making, they won't know what percentage they're supposed to get. There's a lot of opportunity for graft and corruption there.

The same goes for local governments. And we were in Indonesia in October for the EITI board meeting, talking with our Indonesian partners there. There's a coalition there, working very strongly on the EITI.

For local governments in Indonesia -- and in many resource-rich countries, the payments from companies go to the national government, and then they're redistributed down to local governments according to a set formula that's set in law. Many times, local governments don't know what the total payment is that the company's made so they have to take it on faith that the payment that they're getting, the transfer that they're getting from the national government is indeed the one they should be getting according to the law.

So our partners in Indonesia have heard from local governments. They want to know how much each company is paying for the projects in their jurisdictions because there's a certain percentage that they should be receiving, and they know that there might be some corruption there in the transfer of those payments.

In addition, the Indonesia EITI -- in each EITI national process, those stakeholders are on the table, come up with their own reporting template of what the figures should be that come in from companies, what comes in from the government, what should be reported, and then finally, what's reported out to the public.

And this is totally different depending on the country. You can't really compare EITI countries. It's not consistent reporting, but what's really great in Indonesia is that the recent reporting template that they adopted includes project reporting. And that, we think, is a really important precedent.

And just wanted to say -- sure -- another way that it helps the EITI is a couple ways. One is that the law covers public companies, the U.S. law. We need private companies, obviously, to report as well. Private companies are covered in EITI countries. So when we think about coverage, the EITI right now covers about 30 some countries.

If you assume that in all those countries, within those jurisdictions, private and public companies must report. Private companies will be included in these 30 some EITI countries, out of 55 resource-rich countries. So that's pretty good coverage.

If you assume, then, that the public companies, within those

jurisdictions, many of them will have to report according to the Dodd-Frank rules or the E.U. rules.

What that means is that that creates another piece of really reliable, consistent information to insert into these processes. Many of these processes are also subject to undue corporate influence, undue government influence that can actually lessen the quality of the reporting, lead to aggregated reporting that's actually not that useful for a civil society. Civil society wants to know how much each company is paying to the government. They don't want to know at a national level that Exxon royalties were paid.

So what these rules do is they'll create a piece of information that these national EITI processes can use to improve the quality of the processes. And those processes will really put that data to work because you'll have the stakeholders sitting at a table, talking about those.

MR. TAYLOR: Thanks, Isabel. Danny, you wanted to say something about these points. And I'd like -- if I can hand over to you quickly on that, and then I'd like to come back to some of the things, the points that the API has submitted, and I'll put those to the panel.

MR. KAUFMANN: All right. I'll just mention from a somewhat different perspective, you would know best the details on what's ongoing in the discussion, but there are experiences elsewhere, and in my long career at the World Bank, there was the age-old issue of how do you define the project and activities. There is an enormous experience in that and the different treatment for the very small projects in terms of approvals and others.

The whole movement in many countries in the world of reformed,

of procurement systems towards a much more -- mandating competitiveness and transparency, I think, should be also looked at because in that context, even the most reformed countries in terms of competitive and transparent procurement systems, a la Mexico, Chile, Korea, Bulgaria -- which, by the way, are far ahead in terms of their reforms than most industrialized countries nowadays. So there's quite a bit to learn from the south. They also have dealt with the issue. You have to put everything. They are subject under the same regulations of international competitive rules and also in terms of transparency, and they have come up with rules in terms of cutoff.

And they, of course, when asked to discuss it -- I mean, at the end of the day, in addition to the legal issues that you bring up, I think the question of size also matters. And whether it's 20,000 or a million or whatever, that will also be country-specific. \$1 million in Ethiopia, it's a huge project.

So I think one needs to also consider those issues. But my main point is that it's really important to look at the experiences in a slightly different feel but which are very relevant here.

Last but not least, we dealt in the World Bank and some of us pushed really hard from going from aggregate to project-specific transparency, and then the institution has made enormous progress. More, it continues to make progress -- not fully there, but the difference is going from -- since we are in the world of indicators, from being graded in the 20 to 25 in terms of transparency -- if one does it at the aggregate level, 275 to 280. The beneficiary level -- it's going to be beneficiary accountability to the beneficiaries.

On third party monitoring, it's absolutely crucial for any impact to

happen in any of these projects and programs, that there is micro level individual project level transparency.

So from my development experience, it's an absolute no-brainer, and any of the readings that I make, that it's not only sufficient but preferable to have only aggregate reporting just from my 30 years of experience. I cannot make heads or tails of why that would be.

MR. TAYLOR: I have some cynical suggestions on that, but perhaps I'll leave those to a later discussion.

MR. KAUFMANN: About the World Bank?

MR. TAYLOR: No, no, no, no -- in terms of the sort of general desire to have aggregate payments. It certainly creates a sort of nice smokescreen around what those payments are and on what basis, and that's, of course, what we're trying to deal with.

I'd just like to go back to API and what they've submitted because I think it's useful to air some of these concerns. As I said before, you'll be able to look at the URLs that we'll provide, which point to where you can find these source documents. But I think they quite illustrate some of the debate and discussion going around. Why 1504? What's wrong with just EITI?

So perhaps I'll just say a couple things quickly about this submission and then put some questions to the panelists.

So one of the areas that has been expressed by the API, the American Petroleum Institute, is that essentially EITI is sufficient. And I think as you probably heard from our panelists, EITI is something that we endorse, we want to work with, we are working with. And we want to take EITI as far as we

can, but the problem with EITI, the central problem with EITI is its very voluntary nature. It becomes compulsory for participant companies at the point when a country rises to the challenge and goes through the process and ends up being validated.

But what's not compulsory is joining EITI. So the problem we have is a lot of countries, some of which have been mentioned, for which we had the greatest concern about at the beginning of this whole process -- I'm talking about going back a decade now -- are not included in EITI and unless anyone has some bright idea about regime change -- and I'm not advocating what happened in Iraq -- then how long do the citizens of those countries have to wait before -- in the case of, say, Ecuador or Guinea, for example, its output of oil has now gone through a peak and is declining so what are we saying? That because we have a difficult governance problem in Ecuador or Guinea, the people of Ecuador or Guinea who could have a per capita income of \$38,000 have to live with 70 percent on a dollar a day while the president and his son and others associated with the regime go around in nice cars on multiple continents.

So EITI's great insofar as it goes, and we do want to attract more players, more countries into EITI. We think 1504, I think, will be beneficial in driving countries into the EITI fold.

So having dismissed EITI as a standalone thing that's satisfactory to address this problem, there are some other points that have been made.

For example, one of the points that's often made is that 1504 is U.S.-centric, that it might competitively disadvantage U.S. corporations over competitors, and in particular, over national oil companies. So I'd just like to put

that to our panels, those who would like to comment on that.

And perhaps this is also an issue for mining as well, the U.S angle or not. How do we address that? We've had reference to other legislative efforts underway, which, of course, are part of it, but -- Bennett.

MR. FREEMAN: Thanks. That could be a legitimate issue for some international oil and gas companies, I think, to a much greater extent than on the mining side.

But let's be clear here. The whole original purpose of 1504 was that this would not begin and end as a U.S. initiative. Instead, this was a U.S. initiative to lead by example, thanks to the foresight and wisdom of Senator Luger and Senator Cardin and the staff working for them, to be a catalyst for movement by those other jurisdictions.

And while I can understand why a particular international oil company could feel exposed when there are other international oil companies that are not listed in U.S. stock exchanges, that they could be put at competitive disadvantage -- or could run into political trouble with a host country government, that is exactly why we need to move forward with these other jurisdictions.

So if I'm Exxon-Mobile or Royal Dutch Shell or some of the other giant international oil and gas companies that have expressed exactly this concern, then I would, recognizing the reality that 1504 is enacted law, I would suck it up and be pushing, whether publicly or privately, behind the scenes, for comparable swift action in other jurisdictions to close the gaps. And I think that would be very consistent with the original concept from friends on the Hill with the support of the Publish What You Pay Coalition and investors such as Calvert.

So it is a problem, but there is solution here, and moving forward, those other jurisdictions -- I should mention Australia, Canada, South Africa and others whose stock exchanges host significant oil, gas and/or mining companies, we need to be looking for action there.

MS. GREEN: I guess, first of all, certainly the percentage of national companies in the resources-sphere as opposed to oil and gas is less -- I think it's about half. So it's less of an issue in the resources sector. And often you have joint venture-type operations. So we're actually operating alongside a state-owned company.

So we tend to look at the things the other way, as we see our way of operating is a competitive advantage because we see the core of our business is our license to operate, and obtaining and maintaining that is critical to our business.

And so having a good track record in the way that we've operated in the past, being able to demonstrate to the countries where we haven't operated before that we do operate in a sustainable way, that we do make our fair share of contributions to the economy, and that we do get involved very much in not just EITI-type processes but a range of collaborative processes where we like to sit down with governments and with civil society to work out how we run this operation and what benefits the local community will get.

So very much, we advocate that and see that as a benefit. And we would like to raise the bar of all operators. That's not to say -- yes, sometimes we do, as a company, suffer disadvantage in certain countries that don't value these issues, but that's not a reason not to do this.

MR. TAYLOR: Thank you. Isabel or Danny?

MS. MUNILLA: Sure. Yeah, just make a couple comments on that -- that, first of all, the tide is turning. And I think that we've seen this in the forestry sector as well, where 10, 15 years ago, the big public players made these changes, were reluctant. And we saw the tide turning in terms of responsible forestry, the way companies were going, and it's affected state-owned companies as well.

And I think we're seeing a bit of the same dynamic here, and I think -- what's interesting about the U.S. rules, there's a few state-owned companies that are covered. There's Petrobras. There's Sinook. There's Sinopec. There's PetroChina. And we'll see a lot more coverage if the E.U. rules are put into place. On the LSE, we've got a gas problem on the LSE.

So the tide is turning. We think that we're getting there. We've also seen a lot of state-owned companies that are part of the EITI process fully participate, fully disclose their payments. So we don't see that in the future, we're going to see a big problem in getting state-owned companies eventually to see the light. I mean, we're already seeing that quite repressive governments are quite fearful of public outcry, as we've seen in the Arab Spring. That's only going to increase.

Our coalition is quite active. We're quite connected. I think we're growing stronger by the day, and I think that goes the same for lots of other coalitions working on other topics. So I think civil society is listened to.

And actually, that makes me think. Yesterday, we met with a parliamentarian from Ghana, who's the head of the public accounts committee.

And he said that when civil society makes a criticism, there's immediately -- a formal criticism -- a cabinet meeting called.

And I think that this is a sort of response that civil society's getting, as we're seeing a more professional civil society, one that's very evidence-based in their arguments. We're seeing this in a lot of different places so I think the tide is turning, and we're quite hopeful here.

I did want to mention that the G8 statement of support for both mandatory and voluntary payment mechanisms was huge. I think we're going to see movement in a lot of G8 countries. We've got a campaign in Canada. We've got a campaign in Australia. So for us, it's only a matter of time. And obviously, we won't stop until we've gotten everybody.

But I also wanted to mention that the joint venture coverage also helps us, that most -- at least in the oil and gas sector and obviously in the mining sector -- these projects are done in joint ventures. So we have state-owned companies that maybe aren't covered by some of these rules, but they're working with a company that is covered.

And we think that's a positive way to at least -- according to the U.S. rules, we think it's likely that the operator of the joint venture will be the reporting entity, if the operator is a state-owned company and is not a listed company that's covered by the rules. We still think that the listed company will have some influence because they'll have to report their payments within that joint venture.

So we think that there are a lot of different mechanisms that will help to bring national oil and mining companies around to this disclosure.

MR. TAYLOR: Thanks, Isabel. Danny?

MR. KAUFMANN: First, I was glad to be reminded by Isabel that there is still a G8, which is nice to see in these G20 days.

Just briefly, I think there are valid and much less valid arguments on the concerns in the private sector. One has to take a particularly valid one very seriously, and we have heard about the issue of project size and so on.

But one of the least compelling ones is the justification that this will be very costly and difficult because you may violate confidentiality laws within a country. This is essentially pandering to misgoverned settings. That was the problem of the Arab Spring. I've just come back from Tunisia, Egypt and all this, and the ill will vis-à-vis -- the west and many multinationals also resenting the way that basically many work in cahoots in this obscure environment with previous leaders. It's something to work on.

So if some governments will be angered by disclosure, that's a plus and that's what Bennett was saying. I mean, that should be an agent for reform.

At the factual level, my understanding is, from reading the literature and Revenue Watch and others -- and you can correct me -- but Petrobras, in their submission to the SEC, have said in the 30 countries that they have worked on -- many of which basically are not paragons of good governance and have continued to turn a loss. They have never had a complaint.

And lastly, if you look at it from incentives, a perspective -- in today's world, a leader of a misgoverned country is not going to complain because he wants to keep as much of the misgovernments and transparent. So

he's not going to make a big deal and then have all the civil society and international outcry against them. So I cannot see the compelling part of that.

MR. FREEMAN: So just a quick point to pick up on Danny's -- and that is, one of the arguments that the companies have made is that in certain countries where they operate, that such disclosure required by law in the U.S. or otherwise will violate host country laws.

And I just want to commend all of us to the excellent work of the Revenue Watch Institute in putting to rest that assertion as well. And I think that report may be available on the Revenue Watch Institute website. It is, and it looks at several countries in particular and refutes that contention. That is a really important issue here to understand clearly.

And again, while I acknowledge that there could be some turbulence in the relations between some of these companies and some -- several -- I hope only several -- host country governments, that I think that turbulence can be navigated in ways that will benefit the competitive position. As we're all suggesting, if companies benefit investors -- and again, if we can push forward as quickly as possible with comparable mandatory disclosure requirements in other jurisdictions, we'll diminish that risk to the companies with those host country governments.

MR. TAYLOR: Thank you for that, Bennett. I'd like to chalk it open to the floor. We have less time than I'd hoped. Apologies for that. We were a little late starting, and we had questions and answers from the Congressman that took a bit of our time.

By the way, could you introduce yourself, who you're with and

your questions -- and be quick. Sorry.

MR. NESS: I'm Bill Ness. I'm with the U.S. Campaign for Burma.

The point around this issue around companies that claim disclosure is illegal in certain countries. It's very interesting because you have the case of Chevron in Burma, where they said they were contractually forbidden from disclosing their payments to the Burmese regime.

And then when we got a copy of their contract, that wasn't there, which they then told us, well, there's a second contract which has that provision around confidentiality and the whole contract is confidential. You have to wonder if the company is, to use the technical term, bullshitting us.

So getting deeper into this around areas where it's not illegal, but where companies are claiming that there's some contractual restrictions on transparency, and how do we overcome this without having to necessarily dig out every contract through various means?

MS. MUNILLA: I think that's an excellent question, and I think the result of that is that companies are asking for -- some companies are asking for an exemption from reporting in cases where there's either a confidentiality clause within their contracts or whether there's a law in place that's prohibiting disclosure of those payments.

So the report that was mentioned that Revenue Watch produced - - one of the reports -- the original report that I think came out in 2008 -- this is called contracts confidential, and essentially, that reviewed 150 extractive industries' contracts, and found that it's standard for these contracts to include a

clause exempting you from the confidentiality clause, if your home government or your regulator or your stock exchange regulator requires you to report.

We have some, within our coalition -- I believe she's here, actually -- we have a contracts lawyer -- there she is -- who asserts on a pretty regular basis that if you're negotiating contract, you'd be crazy not to include that clause in there, and that you're not doing your job unless that clause is included in that contract.

And in addition, on the host government legal prohibitions, we've investigated quite closely the countries that were raised within comments by industry. We're quite concerned if there are these legal prohibitions in place. So we took those quite seriously, and we've investigated those in Angola, Cutter, Cameroon and China.

So far we have not found any law that specifically prohibits the disclosures as stated in Dodd-Frank. We found no evidence of that, and then in addition, as Danny said, Petrobras in their comment to the SEC said that in all the countries where they work, they haven't found that prohibition is in place.

MR. TAYLOR: Just on -- I think Isabel raises an interesting one. She mentions Angola. It might be of interest to people here that the entire rationale for the launch of Publish What You Pay in 2002, which was a call for a mandatory mechanism to require disclosure, was predicated at that stage on the example provided by the Angola product sharing agreement, which has -- or had at that stage -- a clause in it which says -- was the effect of, except where otherwise required by domestic listing authorities.

So yes, there's a confidentiality clause, unless you're required to

disclose. So I think some of that -- it's quite interesting to have Angola thrown at us as an example of where this is not possible when that was, in fact, the entire reason why we started in the Publish What You Pay direction.

More questions?

At the front.

MS. KOLLER: Thank you very much. Veronika Koller from National Mining Association.

We filed comments and in general we were very supportive of the goals of 1504 and 1502, for that matter, and we really focused on cost implications for our member companies, and also working on how this could be successful in its goals.

I wanted to just bring up, on international level, EITI and I think the 1504 of Dodd-Frank have the opportunity to work together and to complement one another, but now that the U.S. has committed to being a complying country to EITI, I wanted to get to know your thoughts on the timing and how now, since there will be another governmental entity focusing on defining what those payments may be and what the timeframe might be and what that might look like, and with the Department of Interior having the opportunity for private sector and civil society to work to help define those -- and they might be having more detailed conversations than the SEC might be having, which they would be putting into Dodd in the 1504.

Our comments for 1504 mentioned the alignment, how important the alignment is with EITI. And now we have an opportunity that the U.S. is actually going to be looking into this in more detail and maybe Dodd-Frank 1504

shouldn't be coming out so quickly since it focuses on domestic payments and not just the foreign payments.

So I wanted to know your thoughts on how we move forward to make -- because I think we have opportunities for real synergies, and we wouldn't want to maybe miss those opportunities.

MS. GREEN: Let me start more generally about the whole EITI process and how it fits with Dodd-Frank or a whole range of initiatives. We support EITI as probably one of the best processes we have that's very inclusive, and so we would put that at the top of the most desirable of the processes, and what it does is it enables at the country level for the various parties to sit down and discuss what is appropriate, how they're going to put the reports together and what information they want to collect.

And I guess, sort of going back to some of my comments about cost benefit, is that we think that's the best place to do it because then the various parties can discuss how they get that information and what's most relevant to that particular audience.

And, so one of the things that I would like to see is that EITI stays at the top of the sort of preferred mode of reporting and working on this, and that the other initiatives fall in behind that. So if you have a more detailed process and you have an EITI process, that you can use whatever you've done in that process to then fall into the reporting because it is more likely to be more detailed.

And some of that comes back to this definition of projects, and some of the things that Isabel alluded to before is that our concern about some of

these definitions of projects in legislation is that it's very hard to get that level of granularity in legislation, particularly that's having a global impact. And so what you can have with that type of legislation is you go down to a very fine level of detail, which doesn't give you the benefit.

We're more comfortable with that process at the country level because you can sit down and talk about things that are more relevant in smaller countries, and you may agree, a more granular level of reporting for that particular country that's relevant. We prefer to see it done at that level, rather than if you put a very granular level across the board for international legislation, you're doing it in a way that doesn't necessary account for what individuals at a country level want to see.

So we'd like to focus very much on EITI and get that right at the country level. I know there are great things going on in the U.S. There's work being done in Australia at the moment as well, which is great to see.

I'm not suggesting that we put off doing these things because I think the whole initiative is good, but I think that's where the granularity of the regulation comes in. And I think the primary focus of that is more the EITI level and making sure that's enabled to be used for the E.U. reporting or the Dodd-Frank reporting, rather than spending lots of time getting into real granularity at the legislative level, which is potentially then more costly for less reward, whereas I think EITI gives you more of those benefits in the direct participatory process.

MR. TAYLOR: In the interest of speeding up the number of questions, does anyone else want to add something or shall I carry on?

MR. FREEMAN: Just super quick, two points here.

I appreciate your concern about EITI being the overall umbrella, but I do think that for that to be the right way forward, the EITI's got to come to grips with the fact that it still only requires just aggregated reporting. I think there needs to be a serious strategic discussion within the EITI about disaggregating those reporting requirements if it is to maintain the global standard.

The only other quick point is that to really applaud the Obama administration's leadership here, and committing the U.S. to be not only a supporting but implementing a member of the EITI, and that really breathes fresh credibility into the whole initiative, to have a rich country like the U.S. make that commitment now alongside Norway, and it gives, I think, U.S. companies potentially greater credibility if they also can support disaggregated reporting here -- but a really significant breakthrough.

MR. TAYLOR: I couldn't agree more. Jay?

MR. BRANEGAN: Jay Branegan. I work for Senator Lugar on the Senate Foreign Relations Committee.

I also would like to compliment the Obama administration for signing up to be implementing partners since Senator Lugar called for that in legislation several years ago -- the Energy Security Through Transparency Initiative or Act.

I'd just like to ask Rio Tinto, since we actually have a company representative here, does Rio Tinto work in any countries where it is illegal to disclose? And how do you deal with that?

And should disclosure become mandatory, how would Rio Tinto

respond to a country passing a law making it illegal to disclose?

MS. GREEN: First of all, I'm not aware that we do have any problems with disclosure in terms of it being illegal to disclose, but we're still working through all of those implications of that.

One of the things I think we need to recognize as part of this legislation is that there's a burden on companies in trying to implement this, and it's not so much a straightforward whether you'll suffer any direct penalty, but we try to work in countries in a very relationship-oriented manner, and it's not always a good thing for your relationship to then just tell the partners or the government that you have to disclose this. It doesn't necessarily go down well in the first instance.

So it's part of a discussion that you need to have, and some countries see this as an intrusive and a paternalistic approach, and you need to recognize that they do see that, and that there are some valid concerns that they have around that.

Normally, we find that you can discuss that and it's part of the relationship building process and it's part of emphasizing the importance of transparency, and they know as a company that we already endorse that when we go into making arrangements. We endorse that.

I will say, though, is that I personally and as a company, I don't know that we've run this to ground in every place that we operate -- and of course we're continually looking at new territories and going into different countries. So one of the things we do have to be alive to is that you may encounter certain countries where the penalty could be quite severe, either in a

criminal fashion or in a civil fashion.

We do know there are certain countries that regard their information very carefully, and so we do need to be alive to that and not so much for the confidentiality issue, but realize that at the extreme level, there could be places where that could put employees in danger of a civil or a criminal suit. And so there does need to be a recognition and a dealing with that in the legislation at that extreme end of the spectrum.

MR. TAYLOR: At the risk of sounding controversial, I understand that as a concern, but one of the things that I have yet to hear, at least in my opinion, an adequate explanation for this quandary is if 1504 requires -- I don't know the name of your company listed here -- but Rio Tinto, for example, to disclose and country X, where the Rio Tinto subsidiary limited or whatever, is then prohibited from disclosing.

If Rio Tinto, the parent company listed here, does the disclosing, then the prohibition on the subsidiary seems to me to have no jurisdictional relevance because it wouldn't be the company doing the disclosure. The parent company would, in which case we're not talking about prohibitions on the staff.

I get that there could be a negative reaction, but I think that's where the debate actually moves out of the area of this legislation and how we implement it, and into the more diplomatic realm, which is about whether, for example, the State Department might lean on the country and say, "What are you penalizing these people or threatening these people for? They're just doing what they're legally obliged to do." And I'd probably add -- I don't know if I can speak for all the Publish What You Pay Coalition -- but certainly from our side, if a

country gets into trouble in a country for disclosing -- its parent company discloses under the legislation -- you would have a large bunch of NGOs after the country as well so that you wouldn't be on your own facing the music, so to speak. We're not interested in having companies hung out to dry.

We don't have a lot of time left. There's lots of time for discussions going forward. I know Isabel wants to say something very quick. But could we, after Isabel's comment, go onto two or three questions together, and then everyone just gets a fast response, and then see if we can't cover a bit more? And then, by all means, we can talk amongst ourselves during lunch.

MS. MUNILLA: Sure, thanks. I wanted to respond to Veronika's question. Veronika?

MS. KOLLER: Yeah.

MS. MUNILLA: And to Laurel's comment as well, on the U.S. EITI because I think this is actually crucial. So in terms of where that is in the process -- so the U.S. made their commitment to sign up to EITI. That was in September.

Essentially, they have one year to get the signup requirements in order. Secretary Salazar is the lead on that. They have a great team working on it internally, and their job over the next year is to essentially put together their multi-stakeholder group, and then come up with a work plan of how this thing is going to work, and then hopefully announce it by, I think, September next year.

So what Interior has to do is begin to consult with all of the parties, get them together, and I think the point that you make about how Interior is going to see the Dodd-Frank disclosures and incorporate those into the mix. When the multi-stakeholder group comes up with the reporting template is a really

important question, and I think what's great about the EITI process that we like is that it's not Interior by itself that's going to make this determination.

It will be a negotiation among the parties, and I think it'll be a very interesting negotiation because I think that the public companies that are covered by Dodd-Frank -- familiar with the EITI, familiar with these types of disclosures. I think the private companies less familiar will be less comfortable.

So I think that we're really looking forward to that debate and discussion, but I think it's important to make a distinction that companies and NGOs aren't left out of the decision and it's Interior pushing the decision. I think it's everyone that will have to come to a consensus. I mean, that will have to be also a regionally representative process as well. So, coming from the west and the Gulf -- and so we'll have to have good representation of both companies and CSOs. I think that's a really important process. We're quite looking forward to that.

On the project level, in the U.S., we had the Department of Interior write a letter to the SEC endorsing the lease level project definition because that's the way that -- at least for the oil sector -- Department of Interior tracks the payments from companies, and you can find bonus level disclosures at the Department of Interior.

And when they do their compliance on company payments, they do a first compliance check that they like to automate, and that would be essentially to have their lease level database talk to the SEC's lease payment database, and do a first compliance check to see if any flags come up because the Interior has thousands and thousands of leases to monitor and do

compliance on, and so far they only do about 50% of the oil leases on federal lands.

And what's great about Dodd-Frank is it covers payments to the U.S. federal government for oil, gas and mineral production on federal lands. So that's a really important domestic component of the legislation that we shouldn't forget.

I did want to say to Laurel's point about the project definition and that this doesn't account for what individuals actually want to see and that we need that EITI process to determine that, well, I can tell you from our coalitions that we operate in 55 countries, this is what people want to see. They've endorsed this legislation. They've endorsed project reporting, and they want it.

We don't need an EITI process in each country. For example, we have coalitions in Burma. There's no EITI process there, but they want project reporting. So I think it's important to make that distinction.

MR. TAYLOR: Sorry to stop you, Isabel.

I think we have time for maybe one more set of questions. So can we have two or three questions?

Ian, somebody at the back who's been waving for ages, and this gentleman at the front.

MR. GARY: Thanks, Simon. Ian Gary from Oxfam.

I had a couple questions for Laurel, and the first question is around the project level reporting, and to help us understand some of the situations you're facing, could you provide us with a concrete example of what Rio Tinto considers a project where you're dealing with -- so the country and

name of the project where you're dealing with multiple licenses.

Is it the case that these multiple licenses are environmental permits to expand a project where the underlying fiscal terms remain the same and are governed by one document? So that's something I'd like to know.

And the second question is, I'm struggling with what exactly Rio Tinto's position is on 1504 -- whether, as you said in your outset, that you support any initiative with the goals of transparency and good governance. Do you support 1504 or do you support it with large asterisks next to project level reporting?

Newmont Mining, for its part, publicly supported the underlying legislation, the extractive -- the Energy Security Through Transparency Act, and has been very helpful in their positioning. So just getting some clarity on that would be great.

MS. GREEN: Sure. Let me deal with --

MR. TAYLOR: Sorry. Just let me get --

MS. GREEN: Sorry, yep.

MR. TAYLOR: We have to go really fast now. Sorry, everybody.

MR. MILLER: My name's Eric Miller. I'm the acting director of Save the Congo U.S. We're based in the U.K. A few months ago, I met with the Brazilian foreign ministry to discuss provisions, mostly a 1502 as opposed to 1504.

In our discussions, their conclusion was that essentially without any real criminal liabilities and any stiff financial sanctions to go along with these measures, essentially they were useless, that any amount of transparency wasn't

enough without any liability or accountability. I was wondering what you thought of that.

MR. TAYLOR: Interesting.

Gentleman at the front?

MR. GUTTENTAG: My name's Joe Guttentag. I'm a retired tax lawyer working on tax issues, Africa. I don't want to get into technical issues.

I would think, Ms. Green, that Rio Tinto would be interested to know whether its competitors are paying the same amount of taxes, similar economic activities that Rio Tinto pays. So it seems to me not only are the governments interested but the companies should be interested.

As a result -- and I'm new at all this Dodd-Frank, I admit. I have enough trouble with the Internal Revenue Code. Will these rules give us the opportunity to compare the economic activity, the revenues and possibly be used for the purpose of allowing the governments to determine whether these companies are paying their required share of taxes?

MR. TAYLOR: Thank you. Sorry panelists, we're sort of almost right on the cusp of eating time, which will totally freak out everyone who's starving, I'm sure. So I don't know if I can appeal to you for rapid response.

MS. GREEN: Sure. Rapid response. So first of all, the second part of your question, yes, we do endorse 1504, and we're fine with the project concept.

The difficulty is -- let me give you an example from our operations in the Pilborough in Western Australia. We have 430 tenure-related licenses for what we consider to be our project, and that because it's run as a single

operation. Actually, there are 112 expiration licenses, 47 reversion licenses. They're under different pieces of legislation, but this is one operation that's all run together and it's different mines, and so it's shipped to the same place.

And so that's the difficulty we have, is that we would call that a project, but that would not be a definition, I think, that would probably suit most other operations. It's our definition. So how do you write that into legislation, in something that's meaningful?

And the second point -- I think the point you made about is disclosure a good thing? We think it's a good thing. We've published our report, and we think our report enables governments and individuals to see the amount of taxes we pay. Over and above taxes, of course, there's a broader contribution that we make, in terms of procurement, supply contracts, investments in social projects and so on.

So we're very much in favor of that, and we'd like to see other companies do that, and we put that forward as something that says, "We can demonstrate that. If you're looking for a company to operate in your country, this is what we will do. Will other companies do the same thing?"

MR. TAYLOR: Thank you. Other contributors?

MR. FREEMAN: I would just say that the question asked by the gentleman, the retired but still sharp as a tack on tax issues gentleman here, I think, gets to some of the most sensitive concerns that the companies have that has worried them about 1504.

I think that they may be interested in seeing the contracts and payment arrangements of their competitors, but they also are worried about their

competitors seeing their own in certain countries. And this is not discussed much in public, but I think, sir, that you put your finger on one of the toughest competitive issues here, and it'll be interesting to see how the rule defines project level disclosure and what the fallout might be.

That said, the legislative intent is clear, and I look forward to a rule from the SEC that hits project level disclosure on the head, and investors and civil society will benefit as a result, even if there is an intensification, if you will, among some of the competitors in certain countries -- intensification of that competition.

MR. TAYLOR: Isabel.

MS. MUNILLA: Thanks. I'll respond to two comments.

So on the Brazilian foreign ministries comment, I think that the liability for companies to misreport to the SEC is quite high. Even if -- right now within the rules, there's a debate around -- there's an option whether to give investors the private right of action, to sue based on misaccurate reporting, either willfully or not willfully, or not.

Obviously, we would like to have investors have a right of action to give additional pressure to companies to obviously report in an accurate way, but even if that is not in place, companies are quite unlikely to want to lie to the SEC. Even investigation by the SEC is not very favorable.

So I think there are some teeth in place, and I think we'll see the same in the markets in the E.U. that adopt these disclosure requirements as well.

I did want to make one mention in terms of economic cost. I think one of the fears that we've seen come out is that companies are not only worried

about what their competitors are going to see, they're worried about what other governments are going to see. They've been negotiating sweetheart deals for years.

And typically, the team that did the contracts confidential report at Revenue Watch interviewed a number of governments -- Congo, a whole slew of other ones. And what they found was that when -- at the negotiating table, governments, a minister will be there with a few folks, depending on the countries, different per country, but will be there with a few folks to negotiate the entirety of a huge contract -- environmental provisions, fiscal, et cetera, whereas a company will bring in a team of different lawyers to negotiate each one.

There's an asymmetry in many of these countries at that negotiating table, and what we see -- a result of that is bad contracts. So we think -- and our partners think as well -- that these payments are not necessarily going to give you the full picture, unless you have those contracts. But what they are going to do is they're going to get governments and other ministries that maybe weren't involved in the negotiation to begin to ask questions about the terms of those contracts.

And I think that those are important questions to ask when these are limited resources, there's an urgency to use them well, and communities are actually suffering the brunt of some negative impacts without feeling much of the benefit in many cases.

MR. TAYLOR: And with that, I'm going to hand us over to having lunch. So thank you very much to all the panelists, and we'll reconvene shortly.

MS. MUNILLA: Just to let everyone know that at noon, there will

be a speaker -- Reverend Jim Wallace will be speaking at noon here so you can all gather your lunch and sit down at the tables and prepare for that speaker.

Thank you.

MR. TAYLOR: Please welcome Jim Wallis, founder of Sojourners would like to talk to us for a few moments on what parts of the faith-based community are doing on some of these issues we've been discussing today. So, with no further ado, I'd like to hand over to Jim Wallis.

(Applause)

Sorry, Jim. I know you wanted something to drink.

MR. WALLIS: Thank you. I hope you're enjoying your lunch. I heard you had a great morning. And there's rumors around town that you're over here doing the Lord's work, so I thought I would come by and offer maybe a bit of encouragement.

It is great to be here, and I want to thank the Brookings Institute and Global Witness for having me here today. It's good to see friends from Enough, and our guest, Delly Sesete, and all of you gathered here.

I want to start by sharing an experience I had just a couple of weeks ago in this town, which was unusual. It was one of those few bipartisan moments at the Capitol where we Democrats and Republicans, the business community, activists, all kinds of people, conservatives, liberals, across the entire spectrum, in a room together. They actually seemed to enjoy being together in the room. They were smiling at each other, and they felt good about what they had done together, which was a celebration that in 2050, we might see the first generation born free of HIV. It was the World AIDS Day. We'd had three

presidents that morning speak to that commitment on both sides of the aisle.

And the reception had everybody there.

Now, I have to admit I think part of the reason they were there was Bono was there, and they all wanted to get their picture with Bono to show their kids so their kids would think they're really cool after all. So, that was part of it. Bono helped.

But the glue beyond Bono that I saw was that brought Pat Leahy together and former Republican Senator Rick Santorum, and ideological foes had been in this fight, like Nancy Pelosi and Jesse Helms. The glue was faith and a certain kind of moral commitment. There was one Republican senator who said to me, the image of God ought to be a bipartisan issue. I thought that was good.

Now, faith -- the word "faith" -- you're already getting suspicious here, and you should because it's often abused in this town. The language of faith and religion is scary, and often ought to be.

So, I want to tell you a story about a lunch one day in the Senate dining room. Two senators were having lunch, one Republican and one Democrat, and this came up, the issue of faith. The Republican said, you Democrats don't know anything about religion at all. You don't have a clue. You don't get it. The Democrat said, that's not true, we Democrats, we're very religious. We really are. We're very religious. The Republican said, I got 10 bucks that says you can't recite here and now at lunch, you can't recite the Lord's Prayer, right here and right now. The Democrat says, oh, I could, too, I could, too. And he focused, and centered himself, and closed his eyes, and he began.

"Now I lay me down to sleep, I pray the Lord my soul to keep." The Republican pulled out 10 bucks and said, damn, didn't think you could do it, he said.

(Laughter)

MR. WALLIS: That's literally how it goes sometimes in this town. But sometimes -- sometimes -- we're able to find common ground by moving to higher ground, sometimes. I saw that two weeks ago, and maybe this might be one of those moments as well. That's happened now around HIV/AIDS, malaria, and extreme global poverty. We are making progress now on those issues.

Now, Jesus taught his disciples the Golden Rule. It's an ethical commandment that is held in common with all the world's major religious traditions. And I believe that could be our common ground to move us to higher ground. And Jesus' iteration of that command was this: love the Lord your God with all your heart, and soul, and mind, and strength, and love your neighbor as yourself.

Now, one day somebody in Jesus' audience, like the bright idea to ask the question, okay, just who is my neighbor? Well and good, but who are we talking about here? Who is my neighbor? Then Jesus tells this famous story. A man was going down from Jerusalem to Jericho, and fell into the hands of robbers, who stripped him, beat him, went away, leaving him half dead. Now, by chance, a priest was going down that road, and when he saw him, he passed by, to the other side. So likewise a Levite, when he came down to the place and saw him, he passed by to the other side. But a Samaritan while traveling came near him, and when he saw him, he was moved with pity. He went to him and he bandaged his wounds, having poured oil and wine on them. Then he put him on

his own animal, brought him to an inn, and took care of him. The next Tuesday, he took out two denarii, gave them to the innkeeper and said, take care of him, and when I come back, I'll repay you whatever more you spend.

Which of these three do you think was a neighbor to the man who fell into the hands of robbers, Jesus said. The one who showed him mercy. Then Jesus said, go and do likewise.

Now, it is easy for us in that famous story to condemn the priest and the Levite. They left somebody on the side of the road. They passed by. But they were really technically just obeying their laws. They were fulfilling, as they saw it, their responsibilities, and indeed their religious responsibilities. They were both supposed to stay clean in order to fulfill their duties. Touching the bloody body would have made them unclean and cause problems for them once they got to Jericho. My job, they said, is at the end of the road. I can't get involved in the mess by the side of the road. That would slow me down from my responsibilities when I get to the city.

If Jesus were here today, and somebody asked him from the audience, and who is my neighbor, I wouldn't be surprised if he answered something like this: who is my neighbor. I'm not sure what version of the iPhone, he would have. Your neighbor is every man, woman, and child who touched the supply chain to make a cell phone, who was used to make the clothes you wear, the computers you type on, and the cars you drive. Who is my neighbor? Your neighbors are all of God's children, and the theological reality that people, if they try to live out, is that our neighbor is not defined by geographical proximity. Our neighbor is the person in need, wherever they are.

So, sometimes caring for our neighbor means a change of plans. Sometimes caring for a neighbor means that we have to slow down a little bit. Sometimes caring for a neighbor means — might even cost us some money sometimes.

There are people who haven't wanted to get involved in the mess by the side of the road. It happens all the time. It's a mass on the side of the road, but we've got somewhere to go, and we can't get on focused in our direction. So, they walk by and say, it's somebody else's responsibility. My job, they say, is at the end of the road at Jericho. I am just being faithful to my shareholders to maximize profits. My job is getting the products people want into the hands of those who want them. That's my job. I can't be worried about those who get left by the side of the road of my supply chain.

I got a supply chain, and this mass on the side of the road is not my business. If I help clean up that mess along the way, it might cost time and money. It's not my job. I am responsible to the consumer. It's not my job. All I am is the consumer. It's not my job. I'm not breaking any rules. It's not my job. I can't change my plans right now. It's not my job. It would be too expensive to stop and help. And, hey, if a few people get hurt alongside of the road, isn't there always a good Samaritan — you know, Catholic Charities, World Vision? Isn't that their job to help clean up the mess on the side of the road of my supply chain? Isn't it their job?

But Jesus says, it seems to me, that we are all responsible. It doesn't matter if we think we have a good excuse to keep on walking and ignore all the messy and on their steps along the road of the supply chain. And since

we are all responsible, the fact that we benefit from the supply chain makes us responsible, not once, but twice over.

There might be a good excuse to give your supervisor where you just walked on by. There might be a good excuse to give your shareholders when you just walk on by. There might be a good excuse to give your customers when you just walk on by the supply chain. But there's really no moral excuse. There really isn't.

God's children are not defined by color, creed, or borders. We're all God's children, so that a high school student in America, or the young kid working in dangerous conditions in the mines of eastern Congo, we're all God's children. And that fact alone is what can bring us together.

Now, the SBC is not a savior, and no rules are going to fix every problem. Politics, as I know from living in this town, is always, at best, partial. It will take work and vigilance, but from the Catholic bishops of the Congo, Catholic relief services, and numerous NGOs on the ground, many of you today, we continue to hear that these rules of transparency and disclosure will help the people of the Congo end the bloody and violent conflict. They will help. The rules are the next step to make sure that we, whether manufacturers, investors, or consumers, just don't walk away.

The key to the Congo's peace and prosperity will be to ensure that Americans aren't putting money into the hands of violent militias, even if they are called the Lord's army. That natural wealth that the country has should benefit the people who live there.

So, put it this way. As a friend of mine — and I'll close with this —

were talking the other day. On the other coast, his issue is trafficking. He's trying to prevent trafficking. He's working with all the manufacturers and all the companies, and everyone says, but if I do it, my competitors will beat me. If I do it, they'll beat me. So now, they've said we've got to get someone to get us together and talk about this. And the line that came to me from this conversation with me is this: the supply chain must now become a values chain. The supply chain must become of values change. The supply chain reflects our values.

So, we have a responsibility. We have a job. We can just walk on by with our excuses. But we can't do that because the people of the Congo are our neighbors, and the image of God is a bipartisan issue.

Thank you. And if you agree with that, even in the Press Club, you can say, Amen.

VOICES: Amen.

MR. WALLIS: All right.

(Applause)

MR. TAYLOR: Thank you very much. That was fantastic to have some reflection on the moral component of what we're talking about today. Thank you very much.

MR. KAUFMANN: I'll mention -- just to mention that for 10 minutes, we have a break. People can enjoy their food, the conversation, if you need to take a little break just outside of the room. And we will resume sharply at 12:30, in 10 minutes. Thank you.

(Break)

MR. KAUFMANN: Good afternoon, all of you, again. I hope you

had a few nice minutes of rest, but I see that it was also very lively discussions during the off time.

It is my pleasure now to continue this event with a very special session, this time on 1502, on the conflict mineral side. We know already that, if anything, there's going to be even more debate on this issue, which at some points has become also emotive. There are many issues related to human rights and violence, and others. And they are the core of many developmental challenges, particularly in that region of the world in the DRC.

I'm not going to present much about the legislation. You know it, and I have a group of experts with me here. You have the background information. You have been involved in this. So, for the sake of time, because as opposed to this morning when there were four panelists and a moderator, now there are six panelists.

So, we're going to move very quickly, and we're going to do it a bit differently. Instead of an opening presentation, basically I'm going to briefly introduce everybody here, and apologies in advance. I'm just going to mention who you are where you're coming from. The bios are with the audience in any case. And get to ask one different question to each one of the six panelists for a quick response, about three minutes. And then, we'll have a small discussion, interactive, among the panelists, but then quickly turn this to the interactive part with the audience. We do a substantial time, even given the number of panelists that we have, to have a discussion with the whole audience. And keeping in mind very much the overall time, because then we are going to have Senator remarks before we end the whole event today.

Without further ado, let me then introduce the panelists. First, on my far left is Sandy Merber, who's a Counsel, International Trade Regulations and Sourcing, from GE. Yes, we also have to see where the Treasury with the ICC. I imagine it's not the ICC, but the International Chamber Conference. But it will be interesting to discuss it if it was the other also.

Then to his right, we are also honored to have Delly Mawazo Sesete, a human rights lawyer from Congo, from the DRC. And he's the founder of CREDDHO, which is an NGO and research institution he created with eight other students about 13 years ago, and deals with human rights and anti-corruption. And he will give us a perspective from the ground itself, from somebody from Congo DRC.

Then to my left, a partner in this event, is Corinna Gilfillan, the head of the U.S. Office of Global Witness, and she also has an eminent career in Global Witness for some time and before.

Then to my right is Mark Taylor, a senior researcher at the Fafo Institute in Oslo, and he's an expert on regulatory, and he's an expert on regulatory and policy responses to conflict.

To his right is Bruce Calder, Vice President of Consulting Services, Claigan Environmental, who basically heads the conflict minerals program at Claigan Environmental, and he's an expert on global environmental compliance for electronics and aeronautics issues.

And then, to his right, on the far right, and I'm not talking ideologically necessarily.

(Laughter)

MR. KAUFMANN: I mean, that's for you to say. It's Tim Mohin, the Director of Corporate Responsibility at AMD in the microchip industry. He's also a member of the Board of Net Impact with his CSR expertise.

So, this is our eminent panel, which we are very honored to have. And I will start with Sandy, then, on my far left, and to ask you, Sandy, to summarize your views on the SEC proposed rules on 1502, and in particular if you could mention what you consider the main strength as well as the concerns that you may have, or that your company may have. And, therefore, what is of particular importance to address in finalizing such rules to ensure effective implementation.

MR. MERBER: Okay. Well, thank you, Danny, and I'd like to thank Brookings and Global Witness for inviting me, for holding this program.

Let me first start by putting this in a little bit of context by saying that there are actually two streams of corporate response to this issue. One is, of course, the subject that we're dealing today very specifically, which is Dodd-Frank -- Dodd-Frank compliance and the SEC regulations. The other, of course, is corporate social responsibility that exists in the absence of Dodd-Frank.

And GE actually had been involved and been getting involved in this issue prior to the legislation through work that the GE Foundation has done, funding programs on conflict minerals to gather stakeholders for various purposes.

And so, I'd just like to say that when we look at this, we look at it from both perspectives, from the perspective of statutory compliance with Dodd-Frank, but also just from the corporate social responsibility perspective.

I think it's going to be kind of a whirlwind through the SEC regulations, and it's not easy to going over the high points in three to four minutes. And let me say that initially, again, with respect to Dodd-Frank, this is a disclosure statute. And so, when you think about the SEC regulations, I think it's important to think in terms of what makes disclosure the most transparent and the most accurate for companies that are subject to it.

And with that in mind, let me start at the beginning of the process. I think most people here know about, and it's worth mentioning this briefly, that this issue begins at the mine with the determination whether a mine of origin in the Congo region is contributing to the foreign conflict, whether it's owned or taxed by the militia groups.

And the process of determining the progeny of the minerals from the mine through the smelting process is what we called the mustering process. And the first important part, I think, of the SEC rule that I think is very wise is to allow the filers to rely on the industry-wide process for determining the progeny of the minerals at the upstream level. So, I think that's a very important feature that is in the proposed rule that I think it's important to keep.

And in keeping with that, companies like Tim's AMD and GE participate in efforts such as the EICC smelter -- conflict free smelter program to verify whether smelters or refiners of these minerals actually (off mic) are, because the choke point in all this is the smelt. There's a limited number of smelters and refiners in the world, and a vast, vast number of origins and a vast number of suppliers through the supply chains on the downstream side.

And so, there are programs that EICC and Jessie sponsor through

the smelter program, and then in order to try to avoid the unintended consequence of conflict free in the Congo, programs like (off mic) Alliance that my company participate in, to try to get processes in place on the ground so that minerals from the Congo can be part of a conflict free, smelter program.

The second very important thing -- as we move from the downstream following the minerals after they leave the smelter, the second very important piece is the downstream due diligence. And the important issue there is to ensure that there is enough flexibility in an acceptable downstream due diligence process in order to allow filers to adopt programs that are -- make most sense for their circumstances. Filers are very different in these circumstances from very, very large companies, like mine, to much smaller companies. (off mic) longer ones to shorter ones.

Next, flexibility in the reporting process. For example, flexibility in being able to report minerals in the products in a broad product category or a narrow individual product basis is important. And then finally, another very important thing is in the audits required by the statute, to ensure that (off mic) and audit of the report issued by the filer and not an audit of the filer's supply chain itself, which would add an enormous amount of expense probably, not necessary for their transparency aspects.

So, in going forward, I think that where there are open questions in the regulations, it's important to apply two basic concepts in resolving them. First, remember what the objective is, and the second is to have a rule and a process to put pressure on the entire supply chain to move forward smelters that have been verified as conflict free. So, that would eliminate conflict minerals

through exerting that pressure on the choke point for the smelters and the filers. And then, second, the default should also be in favor of disclosure and transparency, accompanied by full reporting of what the program is, rather than anything that's descriptive as to exactly what the due diligence program should look like.

MR. KAUFMANN: Thank you, Sandy. And it's very interesting you that you remarked that's a main objective to move towards conflict free minerals in your whole supply chain, because it was also an important clarification to make that the Section 1502, the legislation, only mandates disclosure and transparency as to the source. It could be the worst possible source in terms of conflict minerals, and there's no sanction -- regulatory SEC sanction. But obviously one is banking on the reputation of civil society in forming another sanction that comes with transparency. So, that's something we should not lose sight, that the legislation does not apply penalties directly.

So with that, let's turn to Dely on the importance of the impact on the ground in DRC Congo on two dimensions, one on government. What kind of reforms? And other type of reactions, maybe negative reactions or bad measures. So, good reforms and bad reforms, or actions that the government has been taking, instituting, as a result of this legislation, and, second, what is the impact on the miners and on the people of Eastern Congo? It's no secret that there is a debate, there is a controversy with different views as to what is the impact on the miners themselves this legislation does have.

MR. SESETE: Thank you. My English is not good, so be patient with me. My working language is French, so I'm trying to learn a new language.

Thank you for giving me the floor.

And the first question is, what about --

MR. SESETE: -- Congolese government we have here after Dodd-Frank. I think from the outset I should say that it's very well known around the world that there is a connection between the ongoing war in Congo and the violence and the exploitation and trade of minerals. That's very fine, and it's very well known.

And when we learned about Dodd-Frank Act, there were so many changes that we had here of our own government. And as I don't have enough time to explain it all, I can say that our own government, since it had its own soldiers in the mining side, they have withdrawn the military from the biggest mining sides, and we are now looking at how we can do -- we can implement certifications. We have the support of UN mission -- peacekeeping mission on the ground. But it's very hard. We have negotiation centers, and the process is going on, but it's facing some challenges, such as clashes between armed groups, so that impairs the certification and the beldition of some mining sites.

Moving on to the second question, what's the impacts on the miners themselves and their livelihoods in general? I can say that it has slowed the rhythm of mining activities because of what I can call now the scaremongering approach from some companies that said, we are not willing to assist from Congo anymore because we are proud of our reputation. And as has been said, there is no sanction, but the sanction is -- it's the psychology. And every single company would like to keep a very good reputation.

So, about the miners themselves, we have been told by some

people that it is a de facto embargo so that people could not -- no longer work on this. But what we can see is we have some counter arguments, and we can say that it is not fair to say no mineral expedition, no life, because, first, we should remember that mineral expedition is a relatively new activity. The boom, the mineral boom is very recent. Before 2000, you could see (inaudible) boom. People had other kind of activities, so, as a consequence, there are many other alternative means of living. People can shift to agriculture, farming, and so on. Mineral acquisition is not the only one activity that they can perform.

And, second, for those who have written -- read the reports from previously, you should remember that miners are victims are slavery, many, many new modern forms of slavery, including forcible labor, bondage, and so on. And as for children, they are dropping out of school so that may serve as slaves in mining sites. And I don't believe that it really helps, that it will help. I don't believe that.

And they say, you know, no mineral expedition, no life. And I always ask, is it good to be fed and then shot? I think we should try to pose and consider what are the consequences, and try to clean up the supply chain since our own metal resources. We've been waiting for that, and we do not disappear on the mere fact that we're not housing them. We should be on our guard and say, what is going on on the ground, and what can we say about what we can get as benefits, real benefits, of that.

I cannot finish without saying that underground, you can see that the map of armed groups and the map of many sides, march because armed groups would like and living because of money they make from exploitation of

mining sites. And that's why we try to keep out those area of control, and then you can see killings, rapes, and so on. If I were lucky to have with me a doctor from African hospital, best in Congo, located in the Congo, who could have the subjects and who could see that many -- most of them are coming -- most of the victims are coming from those areas under control of armed groups, who control -- who have control over mining sites.

And to finish up, I would like to say, if they say no mining exploitation, no life, can those who support that opinion give us an appraisal of mining exploitation? It cannot contribute to have roads, to have schools, to have hospitals, to have access to the mining -- the biggest mining sites, like Besea (inaudible). You need to go by plane. It is 89 kilometers from Gomabad. And there's the million of U.S. dollars being gained every day, but it cannot benefit to the population, to communities. And we say if you can master that domain to have that field, not only our government will get immense money raised from tax, and the civil communities around the mining sites will get peace and will get the social and cultural rights, such rights. And I can say that this is an ominous obligation.

So, the U.S. government through the Dodd-Frank Act, and especially Section 1502, tried to help mankind around the world. And the chosen place was -- is in Congo that is suffering a very nasty situation where not only resources instead of being a blessing, is a curse.

And, finally, I'll go to ICC to produce final rules so that we may try to seek what can be its contribution to mitigate, why not, to end that tragedy in my country. Thank you.

(Applause)

MR. KAUFMANN: Thank you very much. And I get the sense that you were talking about the ICC of Luis Moreno-Ocampo in the Hague.

MR. SESETE: That's one.

MR. KAUFMANN: But, I mean, you put it so humanely, and we are economists here, so more technocratically, it was very clear that you gave the benefit side of the story, but also that there are some costs on balance. The benefits may be much higher.

But it does raise the question, which comes up from the critics, whether this mineral law and rule is not an overly blunt instrument? And I would turn to Corinna now, and perhaps to diffuse, to indirect of a tool to tackle this. In fact, some critics even use more telling language, like the shotgun approach or enormous collateral damage.

So, Corinna, from the Global Witness perspective, why did you come up, since you were involved in this from the beginning, with this type of approach to the conflict minerals, resting on due diligence and disclosure to the SEC? In what way would that be the best way to tackle the problem? So, there's no disagreement that it was a major challenge, and it still is, and a problem. But why this approach?

MR. GILFILLAN: Thank you. I did want to just start building on some of Delly's comments. I did want to just start to put into a broader context what kind of conflict that we're looking at and the role of minerals in the conflict before answering your questions.

And, you know, the conflict in Eastern Congo has been going on

for over 15 years, and has cost over 15 million lives, deaths. And it's been over a decade since the UN group of experts reported about the militarization of the mining sector in Eastern Congo.

For Global Witness, we've been working on the Congo for a decade now, and we go regularly into the field to do investigations to expose the conflicts minerals trade, and to promote policy changes to address that. So, this is something that the international communities, companies, have known about for a long time.

And just so we're clear on what the problem is and the role of minerals in the conflict, we know, it's been well documented by the UN, NGOs on the ground in the Congo and globally, that members of the Congolese National Army and rebel groups make millions of dollars per year through control of mine sites and extortion along mineral transportation routes.

In carrying out this illegal trade, these armed groups have committed serious human rights abuses against the local population, including murder, rape, assault, and use of forced labor and extortion. And Delly really told us in a compelling way from his own experience.

From Global Witness' point of view, this is a clear case where the international community has significant leverage in cleaning up this deadly trade, because we all use products in our everyday lives that contain these minerals. We just heard Reverend Wallis talk about this during lunch.

So, we're totally in support of the approach in the Dodd-Frank Section 1502, because it aims to cut off financing for armed groups who are benefiting from selling off these minerals, by requiring companies to determine

whether their products contain conflict minerals, to carrying out supply chain due diligence, and to report this to the SEC.

Now, Danny has just said -- asked the question of, is this a blunt instrument, this law? Well, I think it's really important to focus on what due diligence is. And if you really understand what due diligence is, it's not a blunt instrument. Now, there's now a clear international standard adopted by OECD, endorsed by companies, NGOs, including Global Witness, investors, and international organizations. The standard requires that companies assess the risks of their mineral purchases benefitting armed groups, take action to exclude any of those conflict minerals from their supply chain, have these measures independently audited, and report on this publicly.

This kind of approach means that companies can continue to engage in the Congo, in Eastern Congo, and in the region by identifying and sourcing from clean mining areas in the Eastern Congo. And as you heard previously from General Electric, that industry groups are starting to do this.

Now, I think one of the really important aspects to consider is what have been the developments since the Dodd-Frank provision was passed last July? Dolly referred to something about this in his comments, but just to reiterate, we have seen some demilitarization of mining areas. The Congolese government recently ended a five-year de facto legal occupation of the region's largest 10 mine, the BCA mine. This is a significant development.

For the first time, the Congolese government in September introduced a legal directive requiring companies operating in the mining sector to implement the OEC due diligence guidelines. This is a significant development.

We have seen more action on this issue over the past year since the Dodd-Frank Act was passed, then we've seen in 10 years of working on this issue.

The DRC government has also publicly stated its support for 1502. The UN group of experts recently wrote to the SEC and said it's having a positive effect, and has reduced the volume of conflict minerals coming out of the Congo.

I would just like to add that actually Dodd-Frank has not yet implemented yet until we get the final rules, but we already have some evidence of this. We've heard from the private sector, and will hear more about all of the positive developments that the private sector is doing. Again, we've seen more action by companies over this past year on this issue that we have 10 years before.

There is the issue of production being at a low, add in the eastern Congo. I think that we all recognize this is due partially to a mining ban by the government that was imposed for six months, and was just lifted in March. We recognize that this has serious implications --

MS. GILFILLAN: -- for miners and their families, but we also did hear how slave-like conditions operate in the mining sector.

But one of the things I'd like to end on is that we think one of the main reasons for the reduction in trade is that international buyers still do not know what the standards will be on Dodd-Frank, and customers don't know what they're going to require to meet those standards. So we're 15 months after Dodd-Frank has passed, and the SEC still has not issued the final rules for implementing 1502. This was supposed to happen. By April of this year, yet

here we are eight months later, and still no rules. And this is an urgent humanitarian crisis that we are facing, and that there's still has been no action on as finalizing the rules.

Delays in the implementation of this law is not good for anyone. It's not good for the U.S.. It continues to pay about \$500 to 600 million per year in aid and peacekeeping costs in the Congo. It's not good for companies because it creates greater uncertainty in the market about what the standards will be. And, most importantly, for the Congolese people, further delays mean armed groups can continue to prey upon the mineral sector, fuel instability, and commit human rights abuses.

So, I'd like to just end by strongly urging the SEC to meet the congressional intent of addressing this urgent humanitarian crisis, and issue strong rules now with no phase-ins or delay. This will reduce the violence in the Congo, save lives, and help develop a clean minerals trade that brings peace and prosperity to Eastern Congo. Thank you.

(Applause)

MR. KAUFMANN: Thanks, Corinna. You made many very important points. One that's just so important at micro and macro levels, and that's the issue of uncertainty. So, some argue that the cost of this legislation are imposing on the industry and their (inaudible), but perhaps even higher are the costs of uncertainty that the legislation is yet not implemented, and it's not clear what kind of implementation that will be.

That type of uncertainty -- policy, regulatory related uncertainty, by the way, is something that we have studied a lot at the macro level, and it's very

clear what has happened in terms of the U.S. macro economy and market sentiment because of the political impasses here.

So, the issue of uncertainty, which features slightly, but it's very important also in the morning session, is something that we need to be mindful of.

You also provided a compelling response to the critics about blunt instrument. I will turn now to Mark, and, first, just ask whether you have any comments, not so much on the bluntness of the instrument, but perhaps it's too indirect to be effective. And could there have been a more effective way of doing it? If you have one comment on that.

But then, I don't want to miss the opportunity of your expertise. And in terms of suggesting very briefly that we have more discussion, the couple of key lessons that can be learned from the experience with other industries sector initiatives in cleaning up their supply chains, which are relevant for 1502 implementation, because too often we forget the wheel doesn't need to be reinvented totally, that there has been other experiences which are similar. When the complaints about costs keep coming up putt. But the experience in under industries may suggest otherwise.

MR. TAYLOR: Okay. Great. And thanks to Brookings and to Global Witness for the invitation to be here and to speak to you today.

On the first issue on whether — the first question whether it's sort of two — whether or not it could be too indirect to be effective, I think it's quite the opposite actually. I think one of the lessons that we've learned over the last two years, in particular from processes like the Kimberly process on conflict

diamonds, was that business is the best entity position to know what's going on in the value chain, in the supply chain. Governments that attempt to provide certification are extremely helpful, but it is, in fact, business that has the best position to understand what's going on in their own supply chain.

And in that respect, 1502 is, in fact, part of a much broader shift that I'd like to just make a couple of points about. And that broader shift is, as we've already heard both from Rev. Wallis at lunch and also from my colleague down at the start here, you know, the shift in consumer — in the market in general, both in consumers and also, as we heard earlier this morning, investors, adding to concerns about price and quality, concerns about ethics. There are now ethical values of production that 1502 is attempting to reflect. It's doing so with respect to not the broad perspective of CSR issues, but really the kind of hard end of the potential harms suffered by people, or the crimes being committed.

The second point that I want to spend a slightly longer talking about it is that governments and policymakers concerned with conflict, counterinsurgency, weak states, or fragile states, have begun slowly to recognize that they have to come to terms, that we have to comment to terms, with the ways that our own economies are integrated to the economies that sustain those forms of instability, insurgencies and conflicts, such as going on in DRC.

So, there are two potential outputs here. This is both the private sector policy issue, as well as a potential public good and public policy option. And the way we're seeing this is that since the passage of Dodd-Frank, not directly related to it, but certainly assisted by it. We've seen very rapid

movement at the international policymaking level at the OECD, as mentioned by Corinna, in two contexts -- one, with respect to conflict minerals, specifically, to with respect to the guidelines for multi-national corporations more broadly, secondly, at the UN Security Council, where some of that work has been integrated under Chapter 7, which binds states, and thirdly at UN Human Rights Council in Geneva, where the Ruggie framework in the form of the guiding principles for business and human rights was passed earlier this year.

All of that's happened in the last 10 months. All of that is coherent with 1502. All of it is coherent with itself, in fact. And the core of that coherence is this notion of due diligence that Corinna mentioned. In other words, that a company's responsibility in these situations arises from their activities and their relationships. And at that. On that basis, they need to understand what potential risks, there are, that their activities and their relationships cause harm to people. It's a do no harm standard. And in that sense, it's quite simple, and it's quite intuitive, and 1502 is part of the broader shift attempting to try to bring that to the issue of conflict than rules.

Okay, lessons from some of the other initiatives. Due diligence, as was mentioned earlier, is new, but it's new only really to the human right field and the conflict field. It's not new to business. It's been in place in merger, acquisition law and securities law for a long time.

One of the lessons from the human rights field, however, in particular with respect to things like human rights impact assessments, environmental impact assessments, that disclosure is absolutely crucial, and that if you look at one of the pioneers in this field, the Fair Labor Association, working

in the garment industry, they have worked very hard to make sure that disclosure has been possible. And I want to just very briefly distinguish between the kinds of risk based disclosure as opposed to actual disclosure of problems detected. And we can come back to that later if you like.

The second lesson is that governments are really important both as a convener, which was the case with the Fair Labor Association as well, as well as for things like the volunteer principles on security and human rights in the extractive industry, also in the private military and security companies' process convened by the Swiss. Is really important as a convener. It's crucial, as a rule maker. We're seeing that in 1502. The rules structure the markets. They incorporate to the market's key norms that society wants business to follow. And, of course, it's important as — government is important as an enforcement mechanism.

So, what are the lessons that we've learned from various processes about if we do nothing? Well, I think the first and most important element to understand is that if we do nothing, we will be accepting, as was mentioned at lunch, the status quo, the status quo that has plutocracy, warlord politics, and of violence integrated to economies in developing countries that we've seen, not just in the last 15 years in Congo, but arguably in the last 20 and 30 years in Congo and Zaire before it.

And for companies, what's the cost of doing nothing? Well, the cost is increasing the risk of civil tort litigation, as well as potentially down the rolled the ICC option, but most likely domestic jurisdictions. In other words, civil and criminal sanctions against those involved with harms that help to sustain

these economies.

And I think that one of the things to keep in mind when we're talking about civil and criminal options., As far-fetched as they are, to be honest, is that they're not just happening in the U.S. under the Alien Tort Claims Act. They are increasingly happening in other jurisdictions. A court in Québec will decide on jurisdiction in a case involving a Canadian mining company in January. And they embody the absence of that statute of limitations because, by and large, they involve international crimes. So, you may think you've dodged it as a company, but it's going to be there. And in the case of DR how long is it going to take, five years, 10 years, before there's a class action involving victims of rape, for example.

So, these are things that don't go away. Due diligence and sent the solution entirely for that legal risk. It could never be, in fact, because once crimes are committed, it's a criminal law issue. But it does begin to change business behavior, and it does help you avoid involvement in those kinds of crimes.

MR. KAUFMANN: Great. Thanks so much. So, okay.

(Applause)

MR. KAUFMANN: So, I've gotten rejected twice. Is not a blunt instrument. It's not indirect or any defective or diffused. So, the question now to Bruce, but isn't it very costly, particularly to the companies? And in that context, I'd like you to comment from the work that you have been doing yourself and made submissions to SEC on the studies by the National Association of Manufacturing and Tulane University, suggesting very high cost estimates for the

companies, for the business sector. And your take and your assessment and evaluation of that.

MR. CALDER: Thank you, Daniel. So, a little bit about Claigan International. Will we are not on the political side, and where not in advocacy. We are a service provider. We work in on a lot of restricted materials. This disclosure is not that different from a lot of other work we're doing, and particularly related to legislation in Europe.

So, we mostly have been focusing on what companies need to do. We communicate and support the conflicts minerals programs, roughly about 200 issuers. And a lot of the work we do in this space has been around budgeting, execution, how they're actually going to accomplish the role.

So, for some time we've been doing costing estimates and working with companies on what their program will be like. We do it within a number of issuers, the 200, and that eventually became public. And we got asked to actually comment on this particular piece.

Our costing estimate, we provide and submit to the SEC, we didn't create to be a rebuttal to NAM. In our business, we are a service provider in this space. It is not in our economic interests to get into a battle with NAM. What we've done here is based upon our work and not intended to actually be a rebuttal of anyone else's.

So, we put together a cost estimate of many different sizes. We work for a lot of large companies. We work also for small, medium, micro, nano, much smaller issuers and non-issuers in this space. And our cost estimate is based on what companies are actually doing, what they're budgeting, and what

the quotations are from service providers. Service providers in the space, this is how much I'm going to charge you to do this particular work. So, ours is not really a theoretical exercise. This is based on what people are doing and quoting each other in a larger space.

We also took this work and we also -- since then, our main focus has been up to now on what a company has to do, because that is our customer base — what do you have to do? More recently, we've been asked actually expand this to look at the issuers and a whole and the supply chain as the whole. So, we've taken the information, and we've integrated government census information. Also, the European Union has some fairly detailed numbers. They've accepted for the number and size of company in the supply chain. We've taken it to extrapolate, to actually be able to calculate. But we do know what companies are intending to pay or are paying at a company level at different sizes, and then map it into a full industry.

We also then double checked it. We took to \$1 billion a year revenue companies and actually looked into their bill materials down to the intimate detail level to verify the work were talking about and suppliers are talking about, are the number and amount we originally are looking at.

Particularly, we're looking heavily into the professional, electronic -
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MR. CALDER: -- and also , and those particular industries has been a core focus of the detailed work. However, the quotations, what people are budgeting, this includes medical, telecom, consumer, industrial, are very wide types of companies.

And we also provided some details here about -- I'm not going to go into every line item because that's probably a bit boring for everyone. So, the major focus is looking at \$1 billion a year revenue companies. And for a company that big, one of their biggest challenges, costs, is the sheer effort of communicating down to the purchasing group. Many larger companies have multiple brands, and those multiple brands have multiple purchasing organizations. The sheer effort of communicating a requirement down from a corporate level to the business unit down to their various person units, and then getting information that, whether it's the identity of the supplier follow-up, or information from the supplier back up the chain, is one of their biggest costs and effort.

Smaller companies actually have a bit of an advantage in this case. Overall, the bird in is a higher percentage of their revenue, but they have some efficiencies that are not necessarily available to the larger companies. Many smaller companies do not have this diversification of a purchasing group. They are more centralized. This nimbleness does give them some reasonable cost savings.

So, when we put math together to do this whole piece, we've basically looked at the costs two, of course, to individual company, each different size of company, and then again, the total costs to the issues, and the total cost to their supply chain. And the number roughly for the issuer is about \$387 million. Generally it will cost on the high side.

We have no economic interest to lowball this number. If I say a number is going to be \$100,000, I cannot quote anybody \$200,000 from here on

in. It's all on the public record. So, it's probably a little bit at the high-end. It's about \$387 million, assuming everybody has a conflict minerals report at the issuer level.

Now, there are more companies in the supply chain, and there is some overlap between obviously the two. The average non-issuer will not have to do a conflict minerals report, nor do they have to have a third-party audit. However, the rest of the work is really not that different from what an issuer is going to do. So, they end up paying about two thirds of the cost per company, defendant issuer does. Their overall costs, based on numbers in the European union, are about the size of a company, and the number of each type of size of company in the supply chain, came out to roughly \$427 million, with about a total cost in the industry in about \$815 million range.

That is making, of course, a number of assumptions. One of the major assumptions, and particularly the companies we're working with, and it's one of their major concerns about cost, it is assumes the rules are created and promulgated soon. Once the SEC creates rules, they will have a single rule to follow. Until now, the customer base that we follow, that we have to support, is not following rule. They are forced to follow the individual interpretation, often from the SEC's proposed questions from the start of 2011, what their individual interpretation. So, they don't have to obey the SEC rules right now; they have to obey AMD's rules, HP's rules, Honeywell's rules, Boeing's rules, aero spaces rules.

Now, in the microchip industry, there's a lot of standardized nation, and definitely. Fortunately, there's a lot in common. But as you go away from

the microchip industry, the actual standardization goes down. You start to see different metals and materials. You start to see custom forms. The smaller companies are not — being compliant with this legislation is one thing, but trying to comply with everybody's version quite much more cost.

So, the last piece -- they also wanted -- again, we didn't write this to be a rebuttal to the NAM numbers. And in NAM's defense, a lot of the numbers were put together before industry had created some of the solutions, and more of the professional providers had entered the market to help drive down costs. But one particular number about the \$9 billion it will cost industry, they had a \$6 billion software cost. Six billion dollars of software in the restricted substance, base is 10 times the annual revenue of every single company in that space. If it was that big, it was a new \$6 billion a year business, would not SEP and Oracle be here?

So, the main thing, our numbers are based on what companies are doing. And if anybody has a question, I'll be happy to address them going forward. Thank you.

(Applause)

MR. KAUFMANN: Thanks, Steve. Sorry, Bruce. With that, we will go to Tim. We've gone full circle. Now we -- we started with GE; we'll end up with AMD. And if you could reflect on the impact, in fact, on the companies of the delay in the issuance of the SEC final rules. And yet many of you are already taking measures already, as was mentioned before. So, it will be interesting to know why are you doing that and what is the nature of that. And since you have been so patient in waiting for everybody else, you get the bonus half a minute in

that. If there was something that you wanted to comment, or particularly you disagree with what was said previously, please say so. You don't have to be particularly polite.

MR. MOHIN: Thank you, Danny, and I appreciate the bonus issue. I'll definitely use that.

First of all, good afternoon. I'd like to thank the Brookings Institute. I'd like to thank Global Witness -- wait, let me stop, say that again so you can get it on tape. I indeed would like to thank Global Witness --

(Laughter)

MR. MOHIN: One of the things you find out in this issue is it does create strange bedfellows. For example, my colleague in the back, Darrin Fenwick from Enough, he and I co-chair a multi-stakeholder coalition who have worked diligently, long and hard, to create efficient and effective policies on this matter.

Why do we have AMD, GE, Enough, Global Witness all working together on this issue? I think it goes back to one of the things Sandy said, and certainly something we heard from Reverend Wallis at lunch. This is a moral issue. It's a moral issue. It's social responsibility. And so, we're a B to B player; we design and make semiconductor products. If you've ever used a Nintendo Wii, you've used AMD chips.

You know, we're not the biggest brand name. I've worked for some big brand names in the past. So, why did we take this on? If we said we're leaders in social responsibility, how could you not take this on? We've heard the egregious stories. We've heard the deaths, the rapes, the killings. It's just

horrible. So, if you feel like you have any of these materials in your supply chain, how could you just walk by?

So, that's why we're here. That's why we took it on. And we've been involved, like GE, for many years now, actually before the legislation, through our trade associations, the EICC and the Jessie you've heard before. We've been working on this issue. And I'll tell you a little bit about what we've done, and how we've managed to make some progress, and how the delay, which is Danny's question, is really going to affect that.

So, we have acted. We are prepared. We've taken apart some of our products. We've looked at what's in those products, and we've asked our suppliers where do those minerals come from. And actually pleasantly surprised that we've made quite a bit of progress on asking those questions and getting real answers.

As Danny described to you, it's sort of a three-part supply chain. It's that upstream piece from the mine to the smelter. The smelter is the choke point, and then the downstream piece from the smelter to the final product. So, we've started with our product. We've gone back to identify the smelters, what smelter created that material. And we've found many, many smelters. In fact, most of the smelters that make tin, tumpline, and tungsten.

Now, the next step is to figure out are those smelters doing it right? Are they conflict free smelters? And in this case, what we've done is we've pooled our resources. The only way to really do this is to work together. So, it's brought together various players within the supply chain across electronics, but also industry sectors. GE is in many different industries. We're

working with aerospace. We're working with the auto guys. We're all pooling our resources, trying to figure out which smelters are doing it right. And if we can trace our materials back to one of those conflict free smelters, then we will have done our job. So, it is doable.

Now, if we look at the delay, I think Congressman McDermott said it this morning. He said, this is unprecedented. This is breaking new ground. But it's the regulations that will make the difference. And so, once we had the law, we had half of the story. Then we had the proposal, and we had two-thirds of the story. But we're missing that last third. We're missing the certainty of what the regs are going to require. What does that look from inside a company?

So, it's not like we have staff sitting around waiting to, you know, for a new regulation -- oh, we're all going to jump on it. I had to pull people from what they already do, get their commitment to do that kind of work that I just described. Now that the regs are delayed, and not just delayed, but seriously delayed, those people are going to say, well, do I need to still do this, or should I go back to what I was doing before?

So, it would be far better for industry -- and believe me, we don't sit around arguing for regulations a whole lot. But it would be far better for industry if the SEC were to issue a final reg with a phase-in, which is something we've talked to them about, rather than just simply delay. If they do delay, and this was a question I asked Congressman McDermott, you could, if you read the law closely, actually see quite a bit of delay in terms of the final implementation. It's somewhat technical, but the law itself is tagged to a company's fiscal year. Most companies, like ours, are on a calendar fiscal year. That ends here in a

couple of weeks. That means that if the final regs are out in January, as it looks like they will be, that's a whole other year for us in terms of when we have to collect the information and when we have to report the information -- 2014. 2014 would be our first report.

And so, obviously when you have busy people, not a lot of resources, they're doing other things, and you look at 2014, it's probably going to fall somewhere down the list a little bit. I don't think that'll happen. I sure hope it doesn't happen. It's something we're trying to maintain now that we've got the momentum going within our company.

So, that's what I wanted to say in terms of our internal policies and the effect of delay. But since I get a bonus issue, I'll take that. Very, very brief.

One of the things that was said earlier that I really want to kind of underscore rather than disagree with is, all of this necessary, but not sufficient. We know that tracking and tracing is great, but we also know that people with guns who have the power, who have the status quo, aren't going to just simply give it up, as the Congressman said to us this morning. So, what's really going to happen, you know, if we have a perfect tracking and tracing mechanism?

Without additional action from the State Department, from security, diplomacy, governance, all of the things that are needed in that country, we won't see the change that we all desire. So, it really is going to take more than just the Section 1502 of the Dodd-Frank being fully implemented before we get to a full solution.

Thank you very much.

(Applause)

MR. KAUFMANN: Thank you. And that was obviously a message on 1504 as well, the complimentary -- with the actions that are needed at every other level. Just tackling the problem with one problematical rotten tree will not solve the forest issue and one has to address that. That's very important.

Let me just quickly follow up with both of you Tim and with Sandy because of this delay issue is just so specific but so important. What is the role and is it helping you, are they using that, or is it due diligence guidance because it appears that that framework can be implemented now without essentially waiting for the FCC regulations and would have you not only ready but clearly belong to that broader framework that is in this direction and which the SEC should be complementary to and then I ask Sandy to do the same.

MR. MOHIN: So, we are, in fact, part of the pilot project for the OECD guidelines. For those of you who don't know, the Organization for Economic Cooperation Development out of Paris has developed its own set of guidelines for tracking and tracing of conflict minerals. One of the things -- and Sandy mentioned this in his opening remarks -- is they are somewhat focused on that upstream side that, you know, mind to the smelter side to the business and we are doing that through that industry process I mentioned before, the Conflict-Free Smelter Program. And, so, that activity -- you're spot-on Danny -- can continue, will continue, needs to continue in the absence of a final regulation being issued, so we are prepared once we do our job and identify the smelters and we can match them up to which smelters are doing it right.

Sandy?

MR. MERBER: I agree with that, completely, and I guess what I want to add, also, is that the OCED guidelines are subject, right now, to a pilot program, and we like AMD to park that pilot program. So, we're still in the process of learning what works and what doesn't work with respect to the OECD Development's guidelines, and we hope and expect that from the experience of the companies involved in the pilot, those guidelines will be revised and approved.

But, the second point I would make is that while the OECD guidelines are very, very detailed and specific on that up-stream process, and while they contain a lot of discussion of mastery process, they don't really define what it is that a company should do in that complicated area that exists between the snuffer and fire of a mineral and the appearance of that mineral in a final product. Companies have very, very complicated supply chains, and I said in my initial remarks, it's important that there be a certain amount of flexibility in how companies deal with the complexity because it varies, and I think that you have a couple of unintended consequences if you try to be very prescriptive about it. You know, one, that if it's prescribed in a way that is applicable to every company, it's probably not going to be enough to some. If it's described, particularly in a way that meets the most rigid requirements, then some won't be able to comply with it.

So, I think that flexibility needs to exist, and I don't think that's a bad thing, therefore, about the OECD guidelines, but I think it's a little bit illusory to think that the OECD guidelines, at this point, or even really at any point, will be the single answer for what should be done.

We're along with a lot of peer companies working on trying to figure what makes sense in our supply chain, and ultimately we'll make a lot of progress on that.

MR. KAUFMANN: Corinna would be next, but your excellent point, which applies to so many challenges about the trade-offs between generic enough to cover everything or very detailed in depth specificity, but some may not be able to comply. Presumably, that's also a major challenge to come up with optimal SEC regulations, and that's not going to be necessarily fully resolved on that. And at the end of the day will be, also, a trade-off at the SEC level, I presume, right?

SPEAKER: Yes.

MR. KAUFMANN: So, it's not just an OECD issue, but it's the nature of an animal that one needs to address. Corinna, next.

MS. GILFILLAN: Yeah, from Global Witness' point of view, I think I would agree with what Tim had said that, you know, companies can implement the OECD due diligence right now. There's not a need to wait for the SEC regulations for companies to take action. That's what Global Witness has actually, for years, been calling on companies to take action and not wait for regulations.

We actually do believe that the OECD is an excellent standard that companies should meet. It was, as I mentioned in my opening comments, negotiated in a multi-stakeholder approach with companies and NGOs spending quite a bit of time negotiating the standard, and we think can be applied the supply chain. Depending on where you are in the supply chain will determine

what kind of actions you need to do. There's a clear five-step framework for what companies need to do. The bottleneck in the supply chain is the smelters, and that's why there's a lot of programs focusing on the smelters and companies need to figure out, you know, where their minerals are coming from, from a smelter. So, that's one of the stages of the process that's important, I think.

It really would be unfortunate if we have different standards. I think that's not particularly efficient for companies if there are lots of different standards out there. So, actually, from our point of view, it would be very efficient to have a clear standard, being the OECD standard, that the SEC would adopt as part of its regulation, and we're also working in Europe and other places as well.

So, we hope there can be a common standard for all companies to meet, which will make it more cost-efficient for companies, as well. I think Claigan was mentioning in the -- Bruce was mentioning in the presentation the need to have a standard so companies don't have to comply with different standards.

MR. KAUFMANN: But there could be common standards basically across jurisdictions, but what about across different types of companies? What about the smallest operators?

MS. GILFILLAN: I think that Claigan may have a comment on what the smallest operators would need to do --

MR. KAUFMANN: Yeah.

MS. GILFILLAN: -- because I think there's a difference there that you described.

MR. CALDER: I agree very heavily with GE and AMD that the

OECD standard is very much for the upstream and the refinery, and there's a lot of good detail for that. For the average finished products user, those opening five points are pretty good. Beyond that, they have a lot of trouble understanding. And then, so, suddenly, companies are vulnerable to what individual company's interpretations are.

The opening five points about strong management practices, et cetera are quite good, and they could be applied, pretty well across the board, and not just smelters. Beyond that, companies trying to implement it were finding a significant variation on how they think it should be applied at the finished product level.

So, companies we're involved with are suffering from a variety in the customer demands, based on the interpretation and whomever in that company has made that interpretation. And most companies don't have a specialized person in this. They really -- it's the person who has another job -- a day job -- and they added this to his workload. So, it's one of the big challenges of the OECD guidance. We're looking, rather, for more straightforward guidance from the SEC. From the refinery mining level, different story.

MR. KAUFMANN: Mark?

MR. TAYLOR: Yep, just very briefly. I think it's a problem that is going to come -- that is built into the nature of the production process.

SPEAKER: Yeah.

MR. TAYLOR: Due diligence basically says that's it's your activities in the nature of your production process that determines what kind of due diligence you should be doing or the specific character of it, which is one of

the reasons why certification or traceability, while an extremely important part of the conflict minerals equation, is not the whole story, particularly for the downstream people who need to be able to actually be verifying that or checking on that.

And it's also one of the reasons why taking this sector-by-sector, outside of the 3 Ts -- now there's an OECD standard that's being -- in draft form on gold, for example -- that we're going to see this expand, I think, across different sectors, where due diligence is going to be adopted, and where there will be a greater clarity with respect to how those companies should be reacting, based on the nature of the value chain.

MR. KAUFMANN: Thanks very much, Mark. I'm going to open it now to all the participants and, again, I will ask, like with the panelists, that if you have one comment or one question, great, and in brief, please, so that we maximize the participation here. And please introduce yourself at the outset.

So, who would want to go first here? If you raise your hand, we'll identify you, and we'll go here, okay?

The Mining Association? Even if you have to introduce yourself again, in case that some people were not here in the morning.

Just because no one else was raising their hand, you know, I thought I would get it started. My name is Veronica Koehler, again with the National Mining Association, and in the SEC's roundtable they organized about a month or two ago, one of the questions that they posed to the panel was whether mining should be included in the definition of manufacturing, and I thought it'd be interesting to hear your views on that. From the mining sector, I think we should

look at this in a realistic way, that mining -- the artisanal, informal nature of mining on the ground is where the human rights violations and funding of armed conflict is happening or in that informal supply chain.

So, when we're talking about whether mining should be included in achieving the success of the goals of Dodd -- of 1502, of course, mining is going to be involved because that's what the origin -- that's where the source is. But, if we're talking about the definition of manufacturing, whether to include the SEC issuers who are mining companies, the formal nature of those SEC issues and those operations, whether it's appropriate to include them in the definition to then be doubly hit by providing reports because they're identified as manufacturers and SEC issuers, but then also have to report to help secure that entire supply chain and respond to linking up that supply chain. So, it would be interesting to hear your thoughts on that.

MS. GILFILLAN: I would actually to --

MR. KAUFMANN: Corinna.

MS. GILFILLAN: I would like to actually refer this question to my colleague, Darren Fenwick, who's in the back of the room from Enough. He's been doing quite a bit of work on this, so I think he is the best person to answer this question.

MR. KAUFMANN: This is the best example of participation and interaction that the answers come from the floor itself. This is great.

MS. GILFILLAN: Yes, and Enough does a tremendous amount of work on the conflict minerals issue and has been, as is mentioned, working through the multi-stakeholder group on grappling at some of these kind of issues.

So, I think Darren's in a good position to respond.

MR. FENWICK: So, I probably can't respond in the greatest detail that you would like. I mean, we can certainly discuss our submission. In our submission, we did say, yes, that mining should be included as manufacturing and we did -- because we do believe, at some point, the processing around the mine involves doing something distinctly different than just pulling the ores out of the ground. And so, we have referenced in our submission portions of the Controlled Substances Act and a footnote, which I'm happy to, you know, pull up and talk to you about. But, yes, we do think it's an important component, and it's certainly a very, very important part of the supply chain.

MR. KAUFMANN: Any of you want to comment?

SPEAKER: No.

MR. KAUFMANN: No? Okay. (Laughter) Go ahead.

MR. SCHATSKY: My name is David Schatsky with Green Research. We do research on corporate sustainability and clean tech.

I've been talking to -- for doing research on this area, I've been talking to a number of large companies, mostly in electronics and talking to their, sort of, senior corporate social responsibility person about the impact of this regulation on their business. And I've seen a wide range of attitudes about it, and somewhat different from what I'm hearing from Sandy and Tim, to some degree.

I mean, some -- well, actually, there's a range from, it's just another thing that we need to deal with; we always have regulations or other challenges that we need to respond to; anytime we get a consultant in here, it's

cost us half a million dollars anyway, so we'll do this and we'll be done to I never would have solved the problem this way; this is going to be costly -- we don't even know how costly it's going to be; and we don't know what the benefit's going to be and there probably won't even be any reputational benefit because everybody's forced to do this, so this is just a big waste of everybody's time.

The thing is, these are professional colleagues of yours, and so, you've probably talked to these kinds of people, too, and I just wonder if you have a point of view around -- and maybe Bruce, also, has probably spoken to some of these guys -- what explains the range of opinions given, what's effectively the same reality that we're all looking at?

MR. KAUFMANN: Yeah, and it is interesting that you said range of opinions, instead of range of estimates because those estimates just vary so widely between what, 16 billion and 800 million or so, that they become almost opinions for a statistician. So, who wants to go first, Bruce, Tim?

And also, if you can add, Tim -- because both you, Tim, and Sandy were great presentations, but perhaps a little bit polite in not saying what are your main concern. If the delay issue is resolved, what is your main concern about the regulation? There must be some downside from the perspective, even of your progressive companies, but maybe not.

MR. MOHIN: Yeah, I can touch on that. But, just to try to answer your question. I see it as kind of an evolution. If you go back to the industrial revolution days, you know, people accepted all kinds of egregious activities in their own factories. Fast forward to more recent times, and we would all be shocked if there were sweatshops in one level down from our particular

production. Now, we're looking at the entire supply chain. As the world globalizes, I think that evolution of thinking is absolutely necessary and people just haven't necessarily gotten there.

Now, to the downsides, yeah, there are costs. This is something we didn't have to do before. It wasn't our problem. And one of the issues that I think -- you know, Danny, you touched on there with your prompt -- is whether this is going to make the difference we want it to make. And I think the other piece is, if it doesn't, you know, why are we doing it? But, there are also liabilities.

So, this is difficult, it hasn't been done before. Trying to track your way all through a complex global supply chain and then come up with a statement that gives your legal department surety that you are making an accurate statement is incredibly difficult. You know, we both have just said, in this panel, that's it's doable, we can figure it out. But, it's not easy and it brings up liabilities and I think that's the downside.

MR. KAUFMANN: Great. Bruce?

MR. CALDER: Well, there's basically two different pieces -- two different sets of problems. One is, a lot of these companies deal with disclosure for materials -- restricted materials requirements. This is the first modern regulation that involves a disclosure to corporate level. It is different; different is scary. Almost all safety, restricted materials, certifications, all happen at the product level. This is the first one, in modern times, that really works at a corporate level. They don't have the experience, not knowing is frightening, and it does create a huge diversity in the way companies think they're going to

comply.

The other thing is, we work, of course, with -- and provide information, get feedback -- with about 200 issuers. The vast, vast majority are not spending one dime and one cent to effort on it until there are final rules, and they're all going to do it.

It's very difficult in a political space to fight against and anti-rate-type legislation. Environmental, they'll go kicking and screaming. They do whatever. It's very difficult for them to fight that political side. However, until there are final rules, they are not spending one iota, one cent. And this is the vast majority. There are good companies -- and right now, good companies, and 17:06 number here, who are doing the right -- are bearing the vast burden of the cost. And getting new rules, hopefully, will now share it. It is not good, the people doing right end up paying all the costs.

MS. GILFILLAN: Can I just --

MR. KAUFMANN: Yeah --

MS. GILFILLAN: -- add a little?

MS. KAUFMANN: -- go ahead. And then --

MS. GILFILLAN: Yeah, I just wanted to add that, you know, in this whole discussion about costs, we really need to remember that, you know, what are the costs of this trade in the Congo? What are the costs -- you know, this is what Representative McDermott really highlighted this morning -- the costs for the people of Congo, which Delly had talked about earlier. I mean, this is not being factored into the equation.

And I know Simon Taylor, our founding director, I think he has a

good point when he says, you know, would we tolerate this kind of trade and kind of slave-like conditions -- people being murdered, raped -- would we tolerate that in this country? We would find a way to change the way that we operate. We would not accept that. So, why is there this double standard that we're going to allow this kind of trade to continue in the Congo? You know, I think that we -- that has really been missing in the debate, particularly in Washington, around this provision, looking at those kind of costs.

And I also agree that companies that are doing the right thing, you know, and then those companies that can just sort of free ride because there's no rules yet. I'd like to point out that some, like the Chamber of Commerce, have been pushing very aggressively to delay this rule-making process. They've called for a second comment period. You know, that is partially responsible for the delay in the rules. That's hurting companies that are actually moving forward and doing good things. So, I think that that's an important part of this discussion, in sort of why, why we are where we are at today.

MR. KAUFMANN: Sandy?

MR. MERBER: If I could just add a couple, of course, building on -- building on all of this, and briefly what Tim said about evolution. You know, every issue goes through an evolution, every realization, every new freedom that 19:07 goes through an evolution and that's happening here.

And I think that's it part of the larger piece, which is that, I think, more and more companies are going to be called on to look deeper into their supply chains for this and other reasons. And, for that reason, one of things that we're looking at as we design a program for this is, will it support the direction,

generally, that accountability is moving in? We don't want to build something that is okay for Dodd-Frank or okay for the OECD guidelines but will not be useful for -- you know, as this kind of accountability expands.

And that brings me to -- Dan, you asked specifically, what are we, you know, maybe being too polite, what are we worried about? You know, I think the main worry is unrealistic expectations about what can be accomplished and when. The -- when I say that a supply chain for a large company is extraordinarily complicated, I don't say it in order to avoid responsibility for looking into the supply chain. I say it to make sure that everybody understands what the expectations are for what can be done, particularly as we start this process, as opposed to what might be expected -- it might be reasonable to expect a little bit later. We decide what to give out, whether one should have started ten years ago, one should have started today.

Point is that, most companies are taking the (off mic), if we started ten years ago looking, you know, at the environment, health, labor, employment issues in our supply chain much more carefully, we're moving now more into this. The question is, what is it reasonable to expect, and that ties into this question of standard because what's reasonable to expect three years from now, I think, is more than what is reasonable to expect for the first year of effort. And I think that we need to be held to a goal to improve this. If you accept that we can't do it all at once, we have to be held to responsibility to continue to improve this process. I believe your part of the processes. So, I think that word, evolution, is a key one in this discussion.

MR. KAUFMANN: Great. I was under the impression that, at

least among the panelists and including the moderator, for full disclosure, there was absolutely no argument about the enormously compelling case on the benefit side and why this needs to be done, and you both, on the corporate side, mentioned also more on an ethical issue. Corinna reminds us, however, that that's not universal, perhaps, I don't know, among the audience and there are outsiders and some Chambers of Commerce and so on, and that's very important. So, I think it may be very useful if Delly give us another angle and reminder on this.

MR. MAWAZO SESETE: Thank you. I think when we are dealing with costs, it's very nice -- on one hand, we have financial costs, and other hand, we have lives (inaudible) and so on, like in terms of another side of costs. So, I should remind that this is egeromnus (phonetic) obligation. You just go against obligation owed by, especially U.S. Government to the Congolese people as part of the mankind. And what's going on, on the ground is that's if we -- as we are witnessing further delay is that's the consequence that's we are going to witness more human rights abuses. So, instead of decreasing the number of incidents of human rights abuses linked to exploitation and trades, that involves (inaudible) group due to that delay, I think, there's a delay on for good effects, as well. That's the points I can make now.

MR. KAUFMANN: Thank you, Delly. He has a question -- front -- and then we will go to the very back afterwards.

MR. BERLAU: Yes, I'm John Berlau. I am the director of the center for investors and entrepreneurs at the Competitive Enterprise Institute think tank in D.C., and one of the striking things in reviewing this provision and

the rules from it, was the State Department map of the area that was required by the law. They -- the State Department had said that some regions it couldn't itself certify, whether they were conflict-free or not because it was too dangerous to put their personnel -- their boots on the ground.

So, my question is for -- particularly for -- how are U.S. businesses supposed to do this, particularly if they're not the size of GE and AMD? And when you talk about the different certification schemes, are any -- I just want to make sure I'm understanding -- of you arguing that there should be a safe harbor if they follow a plan by OECD or by global witness?

And I think on the morality and the cost to the Congo, the global witness document says that as a result, exports have dropped significantly after the law was in effect. Now, whether that's from the law itself or it's a misinterpretation, is a subject to debate, but, yes, if there are less exports, then the warlords and militias are making less. That's one of the good effects. But, how much -- how appropriate -- how moral is that for a tradeoff for stagnation and possible poverty and starvation in the region, even if there aren't as many warlords, or they're not as well funded?

MR. TAYLOR: Shall I start in --

MR. KAUFMANN: Mark?

MR. TAYLOR: I'll start in on some of that. First, I think it's important to recognize that, with respect to your last question, that this is, in fact, the first time that anybody's attempting to deal with these economies, as were economies as such. So, it's extremely important that we get this right, not just for the business end and not only for the people on the ground, but for the way that

the international community, such as it is, responds to the conflicts in these situations -- which is by intervening with State Department or USAID or the UN assistance in various forms, sometimes political and diplomatic, sometimes with funding and development assistance -- with one hand, and on the other hand, the economies that are being -- that are on the private side are sustaining the very warlords that they're attempting to negotiate and potentially undermine.

So, I think we have to -- the question you ask is a very real one. I would like to answer that in a year or two, when we've see how these regulations play out. We're seeing early indications that they do help, that they do limit the resources available to these guys, and that's, I think, a positive thing.

On the issue of safe harbor, if it's the kind of issues that Delly is talking about, where we're talking about violations of U.S. Domestic Criminal Law or International Criminal Law for that matter, no, it's not going to provide safe harbor. But, if a company is able to show -- and I would -- is able to show that it has conducted due diligence with respect to its conflict minerals obligations, then the potential is there for safe harbor. I think that's implied by the due diligence concept and the way it has been used in other legal regimes.

Finally, I haven't see the State Department map, but I do know that, in general, in conflict situations, one of the things that we've discovered over the years in trying to manage responding to conflict, is that the conflict zone analogy or special analogies of dealing with the conflict situation are not particularly helpful. It's far better to look at particular actors and their activities and to begin there, especially when drafting legislative -- legislation and attempts to get at them.

MR. KAUFMANN: Thanks, Mark. Corinna?

MS. GILFILLAN: Just on your question about the reduction in trade, I think there are a number of different factors for that, so I think it would be helpful to highlight some of those factors, which I think both Delly and I have referred to.

There have been -- there was a mining ban that was lifted in April, so I think that that's had an impact in the mining export levels. It's increased, obviously, since the mining ban was lifted. We have also found through our research that there have been some technical challenges in some of the mining areas, including some of the larger mining areas, in that they've reached the water table in the mines, and as a result of that, there's water and they're not able to continue mining because they don't have the technical equipment to actually take out the water. So, that's resulted in a lower amount of minerals being mined.

The other issue is, as I mentioned in my previous comments, that's contributing is the fact that, right now, the SEC rules are not out, and so, companies are waiting to see what the final rules are before figuring out what to do as far as sourcing from the two Kivu region. So, there are a number of different factors that are contributing in the reduction in exports. But, what I would say on -- I would really like to emphasize is that, you know, as we had said, moving forward with the implementation of these rules is really critical and we're seeing that industry is investing in sourcing from the region. We had mentioned in some opening comments, this Conflict-Free Smelter Program, and this is where industry pools together their resources to try and be able to source

from resource -- from conflict-free zones.

The other thing I'd say about the map that the State Department uses, we, as Global Witness, we're a small, scrappy NGO, we don't have a huge budget, we're able to go and do regular research and get into mining areas and get a picture of what's going on in the trading Congo, which mining areas are, you know, controlled by the military, which aren't. I would say that if you can't get into a mining area or you feel like it would not be a good idea to do so, then that would be a clear sign that you don't want to source from there, and so, you wouldn't source from that area. And, so, we as Global Witness, on our limited budget, are able to identify those -- you know, some of those areas. And companies, again, are pooling resources to do these kinds of efforts. There are already companies directly sourcing from the Eastern Congo, through their own efforts. So, I think it is entirely possible if Global Witness, a small NGO, can do this research, I think multi-national companies can do it, and they can pull their resources to do it in an efficient manner.

MR. KAUFMANN: Now, that's an excellent point. In fact, in our project for already almost 15 years of constructing governance indicators for the whole world, we use some sources from basically private security companies who collect data and information on those issues -- the extent to which some regions in the countries are out of the control of government, conflict, and so on. So, just like State Department could outsource Global Witness more and you could get more funds perhaps. There are private companies that do this work and specialize in that and provide those types of mapping. So, in today's entrepreneurial world, getting that type of information -- of course, there's a price

-- it's possible.

So, let's go with somebody in the back.

SPEAKER: Hi, again. I know some of the panelists. Hello.

Regarding -- let's go back to like the parable, where they say the robber and who's your neighbor's keeper. It seems to me this legislation primarily makes it more difficult for the robber to sell his stolen goods on the market. It doesn't nothing to help the person that's been beaten on the ground. And so, I was wondering, to this panel, what they think of perhaps a Congo relief tax, where every product that has conflict minerals in it is taxed and is used to compensate victims that's creating this externality?

MS. GILFILLAN: I wonder if -- these two things. Okay.

SPEAKER: Maybe field that and start with, kind of, following up from the last question, as well. First of all, I want to sort of defuse this morality play that's starting to happen in this room. I think reasonable, moral people can disagree on whether the policy is going to result in what we all want it to result in. And so, let's put that out there.

Secondly, I think both questions are, you know, will this policy work? Will it actually, you know, relieve the suffering of the people in the Congo? Do you starve the beast and the beast goes away? Again, reasonable people can disagree on that, but I think what we need to do, and what we need the State Department to do, is to start working in the region because unless and until there's an actual fair trade clean sourcing mechanism that's sustainable, certifiable, and that businesses can rely upon, it's always going to have some leakage. There's always going to be some bad actors out there, and so that's

what we're trying to support. But, we can't do it alone. We need people in the country that are actually helping us.

And to your suggestion, I think is a fabulous suggestion. So many people are just focused, you know, how do we implement this policy -- where's the humanitarian aid? Where's the security? Where are the people who are actually to address the problem head-on, rather than coming around through the supply chain angle?

MR. KAUFMANN: Corinna?

MS. GILFILLAN: Well, I would just agree, generally, that there does need to be a lot of different things that are happening at the same time. I mean, from our point of view, tackling the financing of the minerals is absolutely critical. That's the main driver -- one of the main drivers of the conflict there. But, I mean, I think, you know, we've been working and doing advocacy with the State Department, USAID -- I think USAID has some funds now on supporting livelihoods.

As Delly was saying, there's an opportunity through the Dodd-Frank to establish a clean mineral trade. There's been so much attention Dodd-Frank has brought -- so much attention to this conflict minerals issue that this is huge for Congo, as far as being able to use this attention to increase investment in the sector in a way that will ensure that the minerals and the revenues benefit people in the Congo, that there are better livelihoods in the mining sector, but not just in the mining sector. And other livelihoods can also emerge if there's less conflict and less violence.

So, I think that there are myriad of approaches that need to be

taken. I don't know if Delly -- if you wanted to add to that?

MR. KAUFMANN: Okay. So, we -- let's go -- since Mike was near the back, we'll go to the very back, and then we'll start coming back up again, so, we have full geographic coverage.

MR. PERSICO: Thank you. My name is Dan Persico. I'm with KEMET Electronics. We're the largest manufacturer of Tantalum capacitors in the world, and we've taken a look at this issue and we think -- with respect, with not oversimplification -- it is pretty simple.

You either want to be in the business or you don't want to be in the business. And if you want to be in the business, you have to do what's right, period. As such, we have met with State, with the SEC. We met last week with Global Witness and Enough, et cetera. We let them know that we pushed the SEC to promulgate this, to move things forward because, you know, we can talk and talk and talk about rules, but we have to start moving forward.

As such, independent of the rules because we know what the guidelines are and we know about what they are, we have already formed our own closed-pipe system for moving material out of Katanga and we're already moving forward with that, and we believe that other people need to do this. It's time for action. And we can stick our head in the sand or we can move forward and makes things right. And, yes, it will evolve and we need to do it. Thank you.

(Applause)

MR. KAUFMANN: Thank you. We go there -- diagonally to the front, right.

FATHER ATUSAMESO: Yes, I'm Father Jean Claude

Atusameso. Originally I'm from the Congo, and I'm the head of the Jatukik Providence Foundation. We are working on sustainable development in the Congo, but also we're helping companies -- American companies -- to have a background on the cultural approach of how to do business with Congolese people. And it's very important that all of us, we do our best, to follow this law because this law is very, very important because we didn't know that a lot of American companies have been getting a lot of resources from the Congo. And this law is helping us to see that tradition from all of you, and to understand that Congolese people have good friends who, after this law, can help the Congo to go forward.

And I know that a lot of questions are about, is this law going to resolve the problem? The question is not that. The question is, how can we resolve the problem after this law because we need to do our best to implement this law because it's the only law which can benefit you in the U.S., also going to benefit the Congolese people. This morning before I leave, I was on Facebook. I saw this shot video and it was about a rape. But the rape was the rape of a white woman, who had been raped in a house with her daughter by soldiers that came. And before -- just when I got here, I saw people calling me -- because I put it on my page -- to say, why did you put this video on your page? When you are calling me, I understand that you understand what Congolese women have facing since the time of the rape. It was difficult for you to understand it, but now you can understand it.

And thank you so much for all of you who are supporting this law, and I think and I believe it's the good approach to go and there is no other way,

and thank you for all of you for supporting the law.

MR. KAUFMANN: Thank you. (Applause)

MR. ARONSON: David Aronson of no fixed abode or employer. I wonder if any of you -- I'm hearing from people on the ground now in Siberia that they're seeing incidents of kwashiorkor, the protein wasting disease because there are -- because the fathers aren't able to make any more money now --

MR. KAUFMANN: Sorry, can you speak a bit louder? We cannot hear you.

MR. ARONSON: Is this on?

SPEAKER: It's one.

SPEAKER: Yeah, yeah.

MR. KAUFMANN: Yeah.

MR. ARONSON: Do I have to speak right into it, like this? Okay.

MR. KAUFMANN: That's fine.

MR. ARONSON: I said, I am hearing that there are incidents of kwashiorkor now in what used to be mining towns in Eastern Congo. I'm just wondering if any of you have any comment on that? And more broadly, why -- when we're talking about millions or billions of dollars -- we can't spend 50- to \$70,000 to send a team of responsible social scientists to go find out what is actually happening on the ground in Eastern Congo now?

MR. KAUFMANN: Thank you. You want to?

MS. GILFILLAN: I think there is quite a bit of work, actually, looking at what's going on, on the ground. There are different groups --and I think maybe Dely could speak to this more -- but there are different groups on

the ground that are working on this issue of conflict minerals. I know, for example, Catholic Relief Services, they do a lot of work in the mining areas in the Kivus and they are looking into, you know, what is going on, on the ground there, in the conflict minerals sector, with all of the different things that are going on, whether it's some of the industry sourcing programs, whether it's the ebb in the trade that's currently going on. I know, as well, for Global Witness, we go on the ground to the Eastern Congo on a periodic basis. My colleagues were just there several weeks ago, and I'm sharing with you the research that we had done from our recent trip, where we did interview miners, you know, all those involved in the trade, to get a picture of what was going on. And I was sharing some of the results of that research earlier when I was talking about some of the impacts on the ground, some of the conditions in the mining areas. For example, the fact that in some mines, they've reached the water table, so there's water coming up, which is presenting a technical difficulty for mining.

The other thing I would mention is that there's been a lot of misinformation on the Dodd-Frank Act itself. In fact, some people on the ground think that it does have an embargo -- you know, and we know that Dodd-Frank is not an embargo, it's a disclosure mechanism. So, there has been -- as Delly mentioned in his comments -- scare mongering among some to spread misinformation and fear among those as in the Congo.

So, one of the things that, I think, civil society groups are working in the Congo to do is to get more information out about this provision and about what's going to happen. And, again, this goes back to the urgency of the rules coming out so that companies and others can know what they're going to be

expected to do and can move forward.

MR. KAUFMANN: Thank you.

MS. GILFILLAN: Does he want to add --

MR. KAUFMANN: Oh, you wanted to add, Sandy?

MR. MERBER: No.

MR. KAUFMANN: No. How do you know?

MS. GILFILLAN: No, no, no.

MR. CAMERON: Mark Cameron with Research in Motion, Blackberry. Like GE and AMD, we're involved with the EICC and GeSI Conflict-Free Smelter Program. We're a part of the OECD due diligence pilot. We're supporting the public-private lines for responsible minerals with the State Department and USAID. So, you know, along with a number of our industry competitors, we're heavily involved in this issue.

The question I have is, right now, the Conflict-Free Smelter Program has only been able to certify smelters that don't source from the region at all because that's the only method of certainty that currently exists. There is no surer certification mechanism to make sure that minerals legitimately mined from the DRC can get into the supply chain in a legitimate and certified manner.

And getting to the question of the timing of the issue of the rule, one issue is because of this issue of different fiscal years. No company wants to be in the group that has to report first, and, you know, be the guinea pig, and particularly, if you're interested in ensuring that there is legitimate sourcing from the region, it's going to take time, I think, for any of those mechanisms to be put in place.

So, how in the issuing of the rule can we make sure that there is going to be room for legitimate sourcing from the region, in the short term? I mean, I think in -- you know, in three years and five years, these things will be worked out, but in the short term -- in the next year or two -- it's difficult to see a method other than making sure that you're sourcing from smelters that don't source from the region that would actually meet the standard of Dodd-Frank.

MR. KAUFMANN: Thanks. Sandy?

MR. MERBER: Well, of course, this is one of the challenges, I think, that we have in implementing the Dodd-Frank and in executing responsibility programs, in general. You know, coming -- Corinna, you know, to your point about misinformation, absolutely correct. It is not embargo of the region. There is no reason in principle why a miner -- a smelter can't be certified or an issuer can't have -- declare that its products are conflict-free, while still sourcing from legitimate sources in the region.

But there is one structural point in the way the rule is drafted, which is that, if the mineral does come from the Congo or an adjacent country, even if it's from a legitimate source that is not supporting the militia groups, then the filer is required to file a conflict minerals report. If the supply chain is completely free of minerals from that region, then there's no requirement to file a (off mic) conflict minerals report. So, filers that want to avoid a conflict minerals report at all have an incentive to source only from non-Congo areas. That's a problem.

And our policy on conflict minerals has four pieces to it. You know, one is to avoid the minerals that support the conflict. The second is to

comply with Dodd-Frank. Third is to support the industry-wide programs that help to verify the smelters. But, fourth is to do what we can to avoid having the conflict-free policy become a Congo-free policy. And that's why we support the public-private alliance and it's through efforts like that and others -- and as Tim said -- we need help with this; we can't do it ourselves to try to make sure that sources in the region can be verified as being conflict free.

And that's why programs like the one that Dan mentioned in the back about closed-pipe supply chains from Katanga are very helpful in this regard. But, that's one of the great dilemmas, and while it definitely is a disclosure and not an embargo policy, we have to be diligent to make sure that it doesn't turn into an embargo policy.

SPEAKER: Just to pick up on what Sandy said -- I mean, the incentives are backwards, and we need to fix that. The Solutions for Hope Program is a great program that allows for conflict-free sourcing from Congo now. The itski (phonetic) bag and tag system allows for tin and cassiterite to come out of the Congo now, but those are very small programs that hopefully will grow over time, but we can't grow them unless we have the right incentive strategies, so to the comment of necessary but not sufficient, we all need to work together on something like a free trade certified -- some kind of way to create an incentive around clean sourcing from the Congo.

And just to pick up on the last question, you know, about what's going on in the villages in the Congo. I attended an announcement yesterday at the State Department of Special Envoy Barrie Walkley, who is flying to Congo today. And I think that's a huge step forward, in terms of the U.S. action in the

Congo to try and make things better. But, one thing he said that stuck with me is, he said, we can't fix this problem from Washington. We can't fix this problem from the outside. The Congolese have to fix it from the inside. We can have influence. We can try and make things better, but ultimately, this is a problem that the Congolese have to fix.

MR. KAUFMANN: Yeah, and that's a theme throughout. Senator Cardin's with us now, so what I'm going to do is give the floor for one minute to Delly, especially after the comments made, then to Corinna, and then we'll end up with one concluding remark from both of you.

MR. MAWAZO SESETE: Thank you very much. I would to say something with relation to Congo free mineral -- I don't know. When, in April of this year, we heard about, what I portrayed as scare mongering uproar from some companies, it was really surprising because as has been said in this room, many companies have had many benefits from Congo, and it's not now the matter of -- the right to do business is a human right and we support that, but, on the other side, we say, you know that's human rights core values such as with respect to life, dignity, freedom from rape and so on, are core values that should be supported by the whole community -- the international as a whole.

And I think, now, it's the time for us as an international community, as a human kind, to become part of the solution and no longer part of the problem. So, if companies that have been -- have done some business with Congo would like to support sustainable development in Congo, it would be a very nice thing.

The other thing I would like to point out now is the -- in a question

that has been raised in the back. They would like to know whether there is -- or there are -- some kind of research on the part of Dodd-Frank on the ground. Before I left Congo some -- a few months ago, I have coordinated an essay on modern forms of slavery in the mining sites and it was this in one of the biggest mining sites and realized that at the end of the day, the miners got nothing. They were only slaves and as I said before, children were -- and are still being -- drugged out of schools, so that they may serve as slaves in mines. And I don't what we can have as legacy of that's mineral boom.

Right now, if you can say -- can you just pause for a second and try to consider what is our appraisal -- I think that it's underground mineral does not bring an added value, and so, we should pause and try to make it a blessing, rather than a curse, as it is right now. Thank you.

MR. KAUFMANN: Thank you. Corinna?

MS. GILFILLAN: Just following up on that. In the companies -- AMD and GE's comments about the approach of engaging in the region and sourcing, I think that we believe that the due diligence approach will enable that to happen, and we're seeing the industry develop various initiatives, which is a good sign that the industry will continue to source from the region.

I would say that there's a significant source of minerals in the Congo. So, I think it's unlikely -- or it seems unlikely to us -- that companies are going to, you know, completely disengage from the Congo.

As far as the incentives, I think Global Witness, Enough, IKAR, other groups will recognize companies making good faith efforts to implement due diligence and begin to develop a clean trade in Eastern Congo. So, we'll

reflect that in companies that are doing good faith efforts. We will recognize that.

A due diligence approach is an iterative approach, and so, we will take that into consideration when we're looking at what companies are doing and what their reports entail in the first -- especially -- particularly, in the first couple years of implementation. So, hopefully, we can work together to use this important legislation to really promote a clean trade in Congo that -- as Delly said -- really can transform the livelihoods on the ground there and reduce the conflict.

MR. KAUFMANN: Thanks, Corinna. Mark?

MR. TAYLOR: Very briefly. I think due diligence -- as Corinna has said -- key to this issue. It is necessary but not sufficient for dealing with the conflict in the Congo. But, here, we really have to emphasize the necessary part, and I just want to repeat what I said earlier. This is actually a groundbreaking legislation, and it reflects an emerging norm that has been around in the international community for about 12 months, but it's been around in a very strong way. So, whatever the United States can do within its own domestic jurisdiction to lead on that front, I think, is extremely valuable. As we heard this morning, the EU and others are looking at ways to take this forward, so the sooner we get those regulations from the SEC, the better.

MR. KAUFMANN: Thanks. Bruce? Last one.

MR. CALDER: So, two things, very quickly. One, again, companies -- most companies are not doing anything in absence to final rules, and those who are doing the right thing -- those who are doing -- are sharing a burden -- a significantly large burden of the cost. And the other is a quick question, I think a lot of what we talked about today is around uncertainty, and

we had some more certainty -- actually it's on the conversation -- this is -- I'm sure it's a really fair question. I was wondering if I could ask a question of KEMET in the back. I don't know if we can get a mic to him because it's kind of really important. I follow parts that work in similar work. The question is with the new capacitors, the ones that are DRC source conflict free, when they'll be ready -- this is a good question from all my customers -- when will they be ready, will there be cost difference, and will you be able to give them something they can put in their conflict-free report.

MR. KAUFMANN: Half a minute.

MR. CALDER: Half a minute.

MR. KAUFMANN: Half a minute answer.

SPEAKER: When will they be ready? Well, the material has to move from Jordan over to (off mic) and that's where (off mic) got these smelters because we are not smelters and (off mic) with powder glued to us and we could have passed it to the others. When will that happen, that's probably months.

MR. CALDER: Cool.

SPEAKER: It is not a short supply chain and it is going to probably move around. Second question -- third question was?

MR. CALDER: Will there be a cost change?

SPEAKER: Long term, we hope there is a cost change.

MR. CALDER: Negative or is it --

SPEAKER: The destabilization in the market right now is going on in the Congo and there's certain miners who have essentially abandoned that mine, respectively (off mic).

MR. CALDER: But if one of our customers wants to buy your capacitors --

MR. KAUFMANN: We need --

MR. CALDER: Okay, go ahead.

MR. KAUFMANN: We need to go. You can take it up --

MR. CALDER: We'll take it up later.

MR. KAUFMANN: But this is the perfect --

SPEAKER: The market will determine price.

MR. CALDER: Okay.

MR. KAUFMANN: This is a perfect ending to a very interactive session to end with a panel asking questions to a participant (laughter), so let's thank every panelist here for this very lively session. (Applause)

And now, we will have the concluding session with Senator Cardin.

SPEAKER: Just to introduce Senator Cardin, he's played an instrumental role, together with Senator Lugar, in recent years in getting us to the point where we had what became known as the Lugar-Cardin Amendment 1504 - the Provision 1504 in the Dodd-Frank Bill.

Senator Cardin will talk to us for a few minutes and he's open to, I think, a few questions afterwards.

Senator Cardin? Thank you.

SENATOR CARDIN: Thank you, all, very much. Thank you, all, very much. I really just really wanted to come by first to thank Global Witness, to thank Brookings, and thank all of you for being here to the continuation in the

development of this subject, as relate to conflict minerals and how we're dealing with it, with both 1502 and 1504 of the Dodd-Frank Act. So, first, thank you.

Thank you for being involved. Thank you for keeping a spotlight on this.

Let me just give you my background on this. I've been active in the U.S. Helsinki Commission since I came to congress 24 years ago, 25 years ago. And I've been working on issues concerning basic rights under the Helsinki umbrella. Shelly Han, who's here, is the staff person who's worked on this issue of mineral conflict and the so-called resource curse.

And if you look at the Helsinki Commission, and I think it's important to understand the background of how these provisions got into the Dodd-Frank Law, so that we understand what we're trying to do -- what the outcomes we're trying to achieve.

The Organization for Security and Co-operation in Europe with its predecessor the Commission for Security and Cooperation in Europe was formed in 1975 under the basic principles that there are three basic baskets of concerns, and all three are related. You can't have one without the other. It's probably best known for its human rights agenda, but it also has an economic agenda and a security agenda. You can't have security unless you have economic freedom. You can't have economic freedom unless you have basic human rights. And these principles are now well-tested and the interrelationship is well-known, which brings me to mineral wealth of countries and how it's been used.

We call it the resource curse because the wealth -- the mineral wealth -- has been used to finance corruption and that financed corruption leads to the instability of a nation, which is not good for the people who live there and

it's not good for the United States of America. So, that's why we get concerned on these issues. We're concerned because we want to see the wealth of a nation used, first and foremost, to advance the welfare of all the people of the country, to finance good governance which will lead to stability, which has a much better chance to lead to an ally of the United States and a market for U.S. products. That's why we get concerned on these issues.

I would like to think first and foremost, the basic rights, but it also is a self-interest that we have in the United States. You know, we spend a lot of money on national defense, and I congratulate the Obama Administration for understanding that our national defense budget is more than our military budget. Our national defense budget is also our foreign assistance budget. It's also our diplomacy budget. We now have a national security budget.

Secretary Clinton understood that, and that's why she was the greatest supporter of including a Dodd-Frank -- the section known now as 1504. She did that because she understood the importance of this to our national security agenda. Yes, the provisions directly affect investors. Investors should have the right to know what the company that they're investing in is doing in another country. They have a right to know that. If I'm going to invest my money, I should be able to know what contracts that company has entered into.

It also provides a more stable source of minerals for the international community, when we know what's going on. And we know what the shortage of material has done for security issues. We know the value of oil, but it goes well beyond oil resources.

For all those reasons, this is part of our security dimension of this

country, and that's why we got so involved on this issue. It was bi-partisan for sure. Senator Lugar and I worked together on this issue, having strong support on both sides of the aisle. Yes, we fought some special interests. There is no question about that. There was vocal opposition from the mineral companies. And I tell you, I listened to every one of their concerns. I did. And I've looked at how the SEC is looking at the regulations and the comments that have been made. I have yet to hear a legitimate concern about transparency. I haven't heard one legitimate argument against transparency, and this is what it's about. You can't have good governance without transparency. Transparency is fundamental.

Another reason why we wanted to move forward on Dodd-Frank is that we wanted the United States to lead. If the United States does not lead, other countries won't act. That's the plain facts of the international community. We've seen that over and over again in so many parts of the world.

I remember our first efforts to free South Africa, and we were talking about how you could use trade to bring down the apartheid government, and the international community didn't want to do anything. The United States led, and the international community followed, and then, what happened internationally was the right outcome.

Well, the same thing is happening on mineral issues. I could applaud the European Commission for their recommendations. They're great recommendations for Europe. They actually, in some cases, go beyond what we've done in the United States because they deal with companies that aren't listed, and they deal with logging issues. That's an advancement. They're

adding to it.

I also want to thank President Obama for announcing that the United States will implement the EITI. That's important. This -- our efforts in Dodd-Frank were not to replace the EITI. It was to supplement the work of the Extractive Industry Transparency Initiative. So, we think they really go together, and we do think we are making progress. But, we need the international spotlight to stay on this issue, and that's why we were so pleased that you were having this meeting today.

When I look out and see the people that are here, you give me great confidence that we will achieve our objective, and our objective, quite frankly, are more stable governments, where the wealth of the nation goes towards its own people and provides a more secure environment for that nation and its neighbors and the United States. We're making advancements and you're making that possible, and I thank you very much for your efforts in this area. (Applause)

And now it is -- as you know, we are in our last week of the session. Now, that doesn't mean it's going to end on Friday or Saturday. Our week can be a long week. It might be Tuesday, Wednesday, or Thursday of next week, but this is the last week of our session. So, it's holiday time. So, I will take one or two questions, if they're friendly questions. Any questions are fine.

(Laughter)

Yes, sir?

MR. ATUSAMESO: Thank you, Senator. In the name of the Congolese people. I'm from the Congo, Father Jean Claude Atusameso. I work

on sustainable development in the Congo and I'm thanking you for what you just said. All of us Congolese people, we know that America would like to lead. By leading, other people are going to follow, and thank you so much for leading.

But, also, we have a major problem today in the Congo about transparency on the elections. We want America to lead on this question. We're speaking about the blood of the Congolese people. More blood is going to come if you don't act now, and please, you are at the last week of the session, please learn our message. There are some problems of transparency in the elections in the Congo and we want you, who are leading, to lead on these issues, to let the winner be the winner and the one who lost, be the loser.

Thank you so much.

SENATOR CARDIN: Well, thank you very much for your question. I certainly strongly support what you just said. For those who are familiar with the OSCE and the Helsinki Commission, you know that we spend as much of our resources in election monitoring as any other single activity. Members of the Parliaments will physically go to countries to monitor elections, and we give our opinion as to how open and fair elections have been, and it's been basically the best standards used for whether elections are open and fair. We think that's a fundamental, basic right, and yes, we will absolutely comment -- I tell you as an individual, we will comment on elections any place in the world, and we will speak out against elections that we think are not fair.

Yes?

SPEAKER: Thank you, Senator, for your time. My name is Gary Reda (phonetic) from the DRC. I'm an independent (inaudible) of preservation.

I'm happy that all of us came here tonight or today, to try to find a solution on what's going on in the Congo. Yes, you talk about security. In order to have security in the Congo, we need strong institution. This is the most important role of a government is to protect its own people. We in the Congo, since a long time, never had a good institution in the Congo. That's why this problem keeps on happening over and over and over again.

You talk about economy. Yes, Congo has cotton. Yes, Congo has diamond, but Congolese people don't eat cotton. They don't eat diamonds. When you go on the field, ask a mother or young guy from that area, they don't even know what cotton means. Yes, Congolese people need American company to go invest in the Congo because they don't eat cotton. They still need American companies to go over there and invest in order for her -- for them to have some food the next day. That's all Congolese people need.

You talk about human rights. Can you imagine 48 women raped every hour? I mean, we're talking about 80 -- 48 people raped. Imagine the time you go to lunch, you come back, 80 people had been raped. It's too much. It's really too much. That was just a comment for you to think about.

SENATOR CARDIN: Let me give you a response. I serve on the Senate Foreign Relations Committee. I serve on the African Sub-Committee. Senator Coons is the chairman of that committee, and we -- Congo's clearly an area of great interest, and we'll continue to do that.

Our objective is to use the resources of a nation to provide good governance and to provide a standard of living for all the people of that nation. It starts with the people of the country. They're the greatest resource. They need

to be educated. They need to have good healthcare. They need to have decent housing. They have to have opportunity. You know, one of our top priorities is gender equity issues, and we fight very hard for those. Secretary Clinton has made that a top priority of the Obama Administration. Our Commission has made that one of our top priorities. I've questioned on gender equity issues just about at every hearing of Senate Foreign Relations Committee, and we will continue to do that.

Land reform is desperately needed in the developing world. Women do most of the agricultural work and get very little of the profits. We need land reform, and we have to deal with agriculture in the developing world.

But, mineral wealth is -- should be an asset. You should be able to use that to develop the type of wealth and opportunity so your -- so the nation can move forward, and the paradox here is that, so many of the poorest countries in the world are resource wealthy. And the resources have been used to finance corruption rather than development. And our effort here is to take that part of the equation -- not exclusively -- that part of the equation and try to turn that around. But, I couldn't agree with you more. You need to deal with land issues. You need to deal with basic protection of people's rights. You got to deal with education. You got to deal with healthcare. All of those are important. I chair the International Development Assistance Sub-Committee of the Senate Foreign Relations Committee. I've held hearings to make sure that we leverage the best that we can. United States is very active on humanitarian needs. I want to see us also active in development needs. But, it has to start with good governance and a respect for the rights of all of its people.

And, with that, I think I'm going to go back to the place that's not quite as friendly as this place, the United States Senate (laughter). So, thank you all very much for what you're doing. (Applause)

SPEAKER: Thank you very much, Senator.

MR. KAUFMANN: I think with this, we have come to the conclusion of a day, a very substantive day, and many of us have learned a lot. I hope the same is with you. And it's obviously an issue that will continue to be alive and need further discussion and also push. I think one clear message that has come out throughout the day that, after all, sunlight is the best disinfectant. But, much beyond that, sunlight can save lives. But, complimentary measures are crucial. Reforms and responsibilities by others and this legislation is also crucial. And there are still some very important details that need to be figured out for the successful implementation of both of these very important provision sections in that law.

I think it has been an enriching discussion in that context and it's to be continued. Thank you for all of you, for having come here, for the panelists, and maybe Simon would want to say also goodbye. Now, that you have just come back. We are just concluding.

MR. TAYLOR: Thank you to all. (Applause)

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