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Dodd-Frank Act Causes Starvation and Misery Through Conflict-Minerals Rules

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By Hans Bader

Much misery has been inflicted upon the Congo and millions of desperately poor people by the 2010 Dodd-Frank Act, through its "conflict minerals" provisions, known in Africa as the "Obama law." A December 1 front page *Washington Post* article shows that the suffering continues unabated. It notes that these provisions "set off a chain of events that has propelled millions of [African] miners and their families deeper into poverty." As they have lost access to decent-paying mining jobs due to the Dodd-Frank Act, some of these miners have even enlisted with the warlord militias that were the law's targets.

Under Dodd-Frank, America's publicly held companies are required to report on their supply connections to "conflict minerals" such as tin, tungsten and gold mined not just in war-torn areas of the Democratic Republic of the Congo, but also in peaceful neighboring countries like Tanzania, which are effectively punished for their mere proximity to the Congo.

As the Cato Institute's Walter Olson notes, "Lawmakers assigned enforcement of the law to the Securities and Exchange Commission – a body with scant discernible expertise in either African geopolitics or metallurgy – and barbed it with stringent penalties for disclosure violations, to which are added possible liability in class-action shareholder lawsuits."

As noted earlier,

"People are going hungry, pulling their children out of school due to poverty, and joining criminal gangs to make ends meet in the poorest region of the Congo, the world's second-poorest country. Residents of this African nation attribute this economic devastation to what they call 'the Obama Law' – provisions of the 2010 Dodd-Frank financial 'reform' law backed by Obama that have created a virtual embargo on minerals produced in the Congo's desperately-poor mining towns."

The suffering is all eminently foreseeable. It was predicted by academics and groups like the Competitive Enterprise Institute, and its harm has been apparent for years. Olson points to "this 2011 account by Prof. Laura Seay (via) of how 'electronics companies now have a strong incentive to source minerals elsewhere, leaving Congolese miners unemployed,'" and a 2011 account by David Aronson in the New York Times of the "unintended and devastating consequences" that he "saw firsthand on a trip to eastern Congo," as well as a "more recent paper by law professor Marcia Narine."

A conservative estimate of the costs of Dodd-Frank's conflict minerals provisions finds that compliance costs just to companies has already exceeded $700 million, with billions more expected in the future. It will impose massive compliance costs on automakers and others, as Washington Legal Foundation, Carter Wood, and the National Association of Manufacturers have pointed out. Years ago, NAM noted that it would harm the automakers and their suppliers, and predicted it would "cost U.S. industry between $9-16 billion to implement."

As CEI's John Berlau points out in the National Review, the conflict-minerals rules will also harm American energy companies and put some of them at a serious disadvantage overseas, and the rules also raise serious First Amendment issues.

Three months ago, the government admitted it "does not have the ability to distinguish" which refiners and smelters around the globe are tainted by a connection to militia groups. In short, notes Olson, "the government has demanded of business a degree of certainty that it cannot achieve itself." As he notes, attempting to comply is a task of byzantine complexity, pointing to a recent flowchart highlighted by UCLA law professor Stephen Bainbridge.

This is just one of countless economically destructive provisions contained in the Dodd-Frank law, which is a 2,315-page laundry-list of special interest giveways that contains no real reform, and instead contains a vast array of payoffs and favors for special interest groups like trial lawyers. Civil rights commissioners and economists criticized it for containing racially discriminatory provisions. Major provisions of Dodd-Frank have been criticized for violating the constitutional separation of powers, equal protection, and property rights.