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ITSCI RESPONSE TO GLOBAL WITNESS 'THE ITSCI LAUNDROMAT'

28 June 2022

ITSCI takes very seriously all concerns regarding the governance and operation of our programme or unreported risks to supply chains. We have dedicated significant efforts to analyse the Global Witness report 'The ITSCI Laundromat'ⁱ and have determined that while usefully reflecting some challenges intrinsic to conflict-affected and high-risk areas it contains contradictions, inaccuracies and selective reporting. Global Witness present a sensationalised and exaggerated picture with what seems a bias towards views of certain actors.

ITSCI strongly rejects all Global Witness' stated or implied allegations of wrongdoing, facilitating deliberate misuse of ITSCI systems or illegal activity. We provide our full and detailed analysis in our transparent response of June 2022,ⁱⁱ making use of both existing information and new field enquiries, to support our determination. In December 2021 we provided extensive input to Global Witness which was only reflected in their reporting in a limited way. Important stakeholder inputs from government and companies appear to have been similarly dismissed without reason.ⁱⁱⁱ

Rumours and agendas are a common challenge to accurate evaluation in informal contexts. In 2009, de-risking and de-facto embargo resulted from unresolved differing opinions on links to armed groups.^{iv} Now, ITSCI's on-the-ground presence makes reasonable and good faith efforts to create best available understanding of local circumstances. This will never be perfect, yet while Global Witness relied on 90 interviews, ITSCI has 120 permanent local field staff supported by an international team continually gathering and evaluating information. Global Witness' language such as 'appears', 'large' and 'seemingly' illustrates their limited confidence in many of their claims.

ITSCI supports stakeholder engagement in our identification, mitigation and transparent reporting of risks listed in Annex II of the OECD Due Diligence Guidance from High-Risk and Conflict-Affected Areas (CAHRA). In CAHRA, risks are expected and resolution of risks is what drives progressive improvement. Global Witness expects 'certification', impossible guarantees of 'conflict-free', and prevention of all links between risk and minerals in an approach that can drive harmful embargo. ITSCI is not a certification programme, does not claim to make such guarantees and may identify risks after-the-fact.

Global Witness 'reveal' allegations of abuses potentially linked to ITSCI monitored supply chains without much substantiation, and with limited recognition of our own pre-existing and numerous reports on the same or similar risks. Incidents of Annex II risks in a CAHRA should not be a surprise to any stakeholder. In 2021, ITSCI reported 1,325 incidents which included;

- 120 on non-state armed groups – 106 in the vicinity of mineral business, with 14 having direct impact
- 102 on public armed security such as army – with 52 illegally impacting mineral business
- 38 on child labour – which is not pervasive at our ~2,500 ITSCI sites
- 876 on chain of custody issues such as tagging or plausibility questions

Our incidents demonstrate our commitment to transparent reporting, and our actions demonstrate our engagement with stakeholders to achieve positive outcomes. Our incidents on armed groups demonstrate that, even when such groups are present in the general area of a mine, direct impact on mineral supply chains should not, as Global Witness does, be assumed. ITSCI works to maximum specificity to avoid unfairly stigmatising large areas without reasonable evidence.

Global Witness conveniently focuses on traceability fraud and smuggling which is a global challenge and one we do not deny as a reality. Fraudulent misrepresentation of origin is an OECD Annex II risk which can be mitigated over time, and one we have multiple processes to identify and address. Global Witness wrongly implies traceability is what guarantees 'conflict-free' minerals, seeming to discount the importance of local knowledge, spot checks and engagement which is at the core of risk management.

We have reported that non-state armed groups have been present around Lukoma mine and mines in Luyuyu, and there are positive developments despite ongoing security challenges. Mines around Luyuyu are already integrated into ITSCI

following improved security from the Congolese army (FARDC). The situation at Lukoma also improved through FARDC security for a time although the non-state armed group recently returned. Stakeholders have confirmed that fraud discussed by Global Witness from Lukoma to Nzibira to be less likely than other potential routes. We have incidents documenting mineral of unknown origin tagged in areas of less focus by Global Witness and have further trained stakeholders on expectations, reinforced procedures and encouraged government investigation as is our normal approach.

Otherwise, there is limited information in the 'Laundromat' report that is accurate and new. It contains many unsubstantiated and false allegations, our comments on which are summarised in our response to the Executive Summary^v. Important examples are false Global Witness claims regarding a non-existent MOU and implied links to Rwandan defence, untrue allegations of profit incentive on non-profit activity, and a conflict of interest in relation to governance. The credibility of allegations is undermined by Global Witness' apparent tendency to rely on certain sources such as 'experts' associated with a failed arbitration case, and a company found responsible by the DRC court for offences relating to the death of two miners. There are questions over balance and independence of reporting.

We consider Global Witness' allegation of systemic failure and covering up of mineral laundering an extraordinary exaggeration.

While rejecting Global Witness' unfounded allegations in Sections 1 to 4, ITSCI agrees with, and has advocated for, many of Global Witness' recommendations. We believe that all companies should understand and contribute to schemes that they rely on or elect to use; final responsibility for due diligence remains firmly on companies. We also agree that any step towards improved governance and enforcement will help reduce the complexity and need for our work. We reject allegations of secrecy and remind all stakeholders of the extensive information available to members, partners and later to the [public](#).^{vi}

Conclusion

Global Witness's underlying prejudgement appears to be that industry schemes cannot work, which contradicts OECD guidance recommendations for effective and efficient due diligence. We strongly believe that the 3T sector, the Great Lakes Region, and ITSCI have played an important, leading, proactive and credible role in demonstrating the implementation and benefits of due diligence. We remain proud of our work.

Although being at the core of 'conflict minerals' campaigning in 2009 and purportedly supporting the OECD due diligence guidance, and concept of progressive improvement, Global Witness paints a picture based on conflicts of 10-20 years ago and makes only limited recognition of positive change since that time. It is unclear what Global Witness' alternative solution now is.

Regardless, ITSCI takes all allegations seriously and has instigated further checks and follow-up as necessary. Without qualification, ITSCI appreciates that this report, however we see it, has been an opportunity to take stock and consider what we can learn and how we can achieve further continuous improvement.

ITSCI welcomes whistle-blower reports of risks related to OECD Annex II. These can be submitted via any local [contacts](#) or our dedicated email address (itsci.whistleblowing@internationaltin.org) or other means explained in our whistleblowing policy.

Circumstances in the region are complex, geographic names can be unclear and security and mineral trading situations can rapidly change. Global Witness reports on several locations and topics, some of which may interrelate, and information can be detailed. We suggest review of the following depending on the extent of reader's interest;

1. This statement, with appended brief bullet points on most of Global Witness allegations
2. Response to the Executive Summary, Conclusions and Recommendations
3. Full and detailed response including Sections 1 to 4

For further clarification or enquiries on the ITSCI programme or on how to access incident information, please contact:

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RESPONSES TO GLOBAL WITNESS ALLEGATIONS IN BRIEF

Regarding DRC tonnages, Global Witness:

- Relies on their own particular definition of 'green' mines, accepting mines may not have been inspected under the ICGLR related validation process for at least a year, and omitting that all validations have expired.
- Implies validated mines are free from association with child labour or armed groups although conversely acknowledging that unvalidated sites are not necessarily linked to abuses and discounting other work.

Regarding Nzibira, South Kivu, Global Witness:

- Creates tonnage 'discrepancies' between mines and a trading centre by comparing ~25 ITSCI mines with ~7 differently designated 'green validated' sites. Wrongly using these 'discrepancies' to allege large-scale fraud.
- Alleges non-ITSCI Lukoma mine as a mineral source linked to a non-state armed group omitting reference to relevant ITSCI incidents. Stakeholders have confirmed fraud to Nzibira is less likely than other potential routes.
- Alleges non-ITSCI mine Chigubi as a mineral source linked with child labour. Considering local context and logistics it is highly improbable minerals reach Nzibira. No other evidence of child labour has been reported.
- Alleges mines around Luyuyu as a mineral source linked to a non-state armed group. ITSCI has past incidents on armed groups and, following improving security, has integrated sites into our traceability and other systems.

Regarding other areas of South Kivu, Global Witness;

- Relies on 'validation' to claim 'discrepancies' in tonnages at the Lubuhu trading centre and quotes much higher figures for tagged mineral tonnage than ITSCI has actually recorded.
- Re-reports older and generally now irrelevant information on 'suspected failures' at other trading centres and mines controlled by armed groups. ITSCI incidents exist, and have been acted on, for most issues raised.

Regarding Rubaya, North Kivu, Global Witness;

- Omits important and complex historical context of Rubaya including around changes in mineral rights including during presence of armed groups (RCD-Goma, CNDP, M23), long-term mining by the local cooperative, and long running local dissatisfaction or disputes with the company MHI/SMB.
- Presents SMB's view of various situations, omitting ITSCI and stakeholder input on, for example impacts of re-defining concession boundaries, non-payment to miners, or withdrawal of SMB from ITSCI at end of 2018.
- Misunderstands or selects to omit a trend to increased violence prior to the end of 2018, for example evidenced by the suspension by the Minister of Mines of activity around SMB's concession during mid-2018.
- Fails to recognise that the cooperative mining the SMB and other local concessions remains an ITSCI member and incidents are relevant to that cooperative, other sites and companies in the region and internationally.
- Misunderstands the local trading context, incorrectly describing who sells to who, re-reports wrongful concerns regarding production previously rejected by stakeholders, focuses on certain individuals without balance.
- Wrongly accuses ITSCI of actions leading to violence, quoting events in 2019 when cooperative members were shot by mining police contracted to SMB, failing to report accountability as determined by DRC courts resting with SMB and the mining police.

Regarding Rwanda, Global Witness;

- Focuses allegations on historic circumstances as far back as 2011 failing to present a balanced view on changes or progress such as developments in Rwanda mining as supported by investors and donors.
- Falsely alleges ITSCI was established as a 'fraudulent' scheme to support smuggling from DRC, when records and evidence clearly show ITSCI primary objective was primarily to support DRC before Dodd Frank was enacted.
- Acknowledges that a major Rwandan company had moved to legally import minerals from the DRC from mid-2009, failing to recognise that was driven by ITSCI, and making later contradicting allegations on smuggling.
- Relies on sources such as a failed arbitration case reverberating inaccurate views and assertions which have been rejected, e.g. 'the false allegations regarding smuggling, were quietly abandoned...'
- Makes sweeping claims around 'low' coltan production in Rwanda based on basic misunderstanding of mineral types, including omission of very significant mixed mineral production figures from Global Witness analysis.
- Makes sweeping inaccurate assumptions on Rwanda and DRC coltan export trends to allege large-scale smuggling, while omitting analysis of multiple business, logistical and contextual influences on those trends.
- Falsely implies connection between ITA and Rwanda's then Defence Minister and use of a non-existent '3-way' MOU to support a certain Rwandan company.

Regarding incident reporting, Global Witness;

- Uses disputed views on one of ~10,000 ITSCI incidents to falsely claim we ‘frequently’ downplay or ignore issues. We dispute a report which lacked evidence, made false accusations and misunderstood ITSCI procedures.
- Falsely claims that ITA and ITSCI ignores ‘illicitly tagged minerals’ for alleged financial benefit ignoring evidence from incidents we have reported on plausibility issues, misuse of tags and other aspects of fraud.
- Seems to discourage incident reporting if potentially damaging company reputation or business although OECD guidance expects reporting to encourage progressive improvement and Global Witness campaigns for transparency.
- Falsely alleges ITSCI only takes action against ‘minor’ incidents of smuggling leaving ‘large’ companies alone, or favouring without providing substantiation or evidence. We implement standard incident procedures.

Regarding other allegations, Global Witness;

- Falsely alleges our ‘minimal’ field staff collaborate with miners and officials to ‘launder’ minerals. We refuted the allegation, explained performance checks, and have acted on 4 cases of misconduct in five years.
- Falsely alleges a profit motive for tagging ‘high volumes of minerals’ ignoring that ITSCI is operated at-cost with no profit incentive, with funds held in trust for ITSCI, and any surplus or deficit rolled into following years.
- Wrongly alleges conflict of interest although ITSCI is governed by individuals with no interest in commercial matters on behalf of two not-for-profit organisations.

ⁱ Global Witness (April 2022): The ITSCI laundromat - how a due diligence scheme appears to launder conflict minerals, London. Available at: <https://www.globalwitness.org/en/campaigns/natural-resource-governance/itsci-laundromat/>

ⁱⁱ ITSCI (2022): ITSCI Response to Global Witness ‘The Laundromat’, 27 June.

ⁱⁱⁱ Lieutenant-General Ndima Kongba, Constant “Response of the Provincial Government of North Kivu to the Report of the NGO Global Witness dated April 2022.” Received by Head of the NGO Global Witness, 01 June 2022. Pawar, Jagannath, “Rapport ‘ITSCI Laundromat’ de Global Witness’ 29 April 2020. Kalambay, Serge ‘Rapport de Global Witness intitulé : LA LAVERIE ITSCI’, Received by A Monsieur Davis, 13 June 2022.

^{iv} ITSCI (June 2022): ITSCI Response to Global Witness ‘The Laundromat’, pp. 46.^v ITSCI (June 2022): ITSCI Response to Global Witness ‘The Laundromat’, pp. 6-13.

^{vi} See www.itsci.org.