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INCIDENTS RELEVANT TO APPLE INC'S CONFLICT MINERAL REPORT

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The iTSCi Programme worked with Apple Inc in early 2016 to pioneer review of incidents in the upstream supply chain by downstream users of minerals produced in the Great Lakes Region. Apple reviewed more than 700 incidents identified and recorded by iTSCi in the 2015 period, and iTSCi provided extensive clarifications and explanations from our expert field teams. This process has continued for the period of 2016 for which Apple, together with the Conflict Free Sourcing Initiative CFSI, reviewed the 863 incidents generated by iTSCi field teams during the last year.

Apple's Conflict Minerals Report (CMR) for the reporting period of 2016 notes 15 incidents in which individuals identified as members or potential members of 'armed groups', in particular police, the national army, and a Mai Mai group, were alleged to be involved. Of these, the majority of incidents (13) were relating to the 3T supply chain monitored by iTSCi since a far greater level of transparency and detail is available than for minerals and areas where no industry programme is active on the ground.

The previous review highlighted various challenges¹ to understanding, defining and resolving risks and these challenges remain. Nevertheless, our recent report highlighting the outcomes of all iTSCi incidents between 2011 and 2016 has demonstrated the many positive impacts brought about by the system that we have in place².

In order to continue to facilitate wider understanding of the complexities of incident management in high risk areas iTSCi has decided to publish summary information on all 13 incidents relating to the Apple CMR. Table 1 below provides an introduction to stakeholders involved, and Table 2 describes the alleged or confirmed potential risk, what has been done, and the outcomes so far. Note that since Apple conducted their review, some incident information has been updated.

The incidents describe various alleged and confirmed payments, generally to individuals within an organisation, and ranging from US\$0.8 to US\$800. Despite completing a full investigation on all incidents that have been closed, and continuing to seek information and evaluate incidents which remain in progress, to date, there is no evidence confirming a direct link between illegal payments to non-state or state armed groups and specific minerals in any of the 13 incidents. Such links may be considered more or less probable depending on the situation and consideration of Table 2 will provide a view of the challenges of exact interpretation and limitations on legal follow-up. It is notable that officials involved in the incidents were in many cases sanctioned by their hierarchy by various means.

iTSCi is pleased to co-operate with member companies such as Apple who make use of incident reports for their own due diligence and will continue to learn lessons from such discussions to further improve our activities to achieve positive and lasting change in the central African 3T mineral sector. iTSCi also encourages the international community to addresses previously highlighted challenges, such as on disposal of seized, or stock minerals, in order to reach an improved common and practical understanding of the best approach to manage 'conflict minerals'.

iTSCi provides incident information to member companies and partners on a monthly or more frequent basis. Some summary information is made public online to non-contributors at a later date³.

¹ See descriptions available here <https://www.itri.co.uk/itsci/news/itsci-incidents-noted-in-apple-inc-s-conflict-mineral-report>

² See report at <https://www.itri.co.uk/itsci/news/itsci-report-demonstrates-effective-risk-management-outcomes-in-3t-minerals-supply>

³ See <https://www.itri.co.uk/information/itsci/itsci-incident-summaries>

Table 1: Information on the actors involved in the 13 incidents

ACRONYM	FULL NAME	CATEGORY	NOTE
ANR	Agence Nationale de Renseignements	State Security Forces	ANR is under the direct authority of the President of DRC. Some agents carry weapons. ANR corresponds to an armed group as per definition included in section 1502 of the Dodd Frank Act.
FARDC	Forces Armées de la République Démocratique du Congo	State Security Forces	FARDC is within the Ministry of Defence. FARDC soldiers carry weapons. FARDC corresponds to an armed group as per definition included in section 1502 of the Dodd Frank Act.
PNC	Police Nationale Congolaise	State Security Forces	PNC is within the Ministry of Interior. PNC agents carry weapons. PNC corresponds to an armed group as per definition included in section 1502 of the Dodd Frank Act.
PMH	Police des Mines et des Hydrocarbures	State Security Forces	PMH is a unit of the PNC, and is within the Ministry of Interior. PMH agents carry weapons. Since PMH is a unit of PNC, it does correspond to an armed group as per definition included in section 1502 of the Dodd Frank Act.
RG	Garde Républicaine	State Security Forces	Republican Guards are under the direct authority of the President of DRC. Some agents carry weapons. Republican Guards correspond to an armed group as per definition included in section 1502 of the Dodd Frank Act.
N/A	Mai Mai Nyatura	Rebel and Militia Group	Founded in 2010, Mai Mai Nyatura is a Congolese Hutu militia, operating in North and South Kivu. ⁴ Mai Mai Nyatura correspond to an armed group as per definition included in section 1502 of the Dodd Frank Act.
Divimines	Division/Administration des Mines	Public administration	Divimines oversees the production and trade of minerals through the supply chain. Divimines agents are in charge of tagging minerals at the negotiant level within the iTSCi system.
SAESSCAM	Service d'Assistance et d'Encadrement du Small Scale Mining	Public administration	SAESSCAM is in charge of monitoring and providing assistance to Artisanal and Small Scale Miners. SAESSCAM agents are in charge of tagging minerals at the mine within the iTSCi system. ⁵
CPP	Comité Provincial de Pilotage	Stakeholder group	CPP are a stakeholder group at the provincial level. CPP are led by the Provincial Minister of Mines and composed of representatives of SAESSCAM, Divimines, CEEC, cooperatives, traders, exporters, civil society, PMH, FARDC and ANR. They should meet at least once a quarter to assess the mining sector, identify risks on the supply chain and ensure that mitigations measures are adopted and implemented.
CLS	Comité local de suivi	Stakeholder group	CLS are a stakeholder group at the local level. CLS are usually led by the Territorial Administrator and composed of representatives of local administration, traditional authorities, Mining cooperatives, traders, SAESSCAM, PMH, FARDC, ANR, civil society. They should meet at least once a month to assess the mining sector, identify risks on the supply chain and ensure that mitigation measures are adopted and implemented. The CPP and CLS are formed via facilitation of iTSCi.



⁴ <http://www.irinnews.org/report/99037/briefing-armed-groups-eastern-drc>

⁵ <http://www.saesscam.cd/SAESSCAM/pages/historique.php>

Table 2: Details of the 13 incidents, including their date of occurrence, current status and outcomes

INCIDENT	DESCRIPTION OF INCIDENT	WHAT WAS DONE	OUTCOMES	RELATION TO MINERALS 
<p>NK-2016-0024</p> <p>Mar 2016</p> <p>Closed: resolved</p>	<p>The CEEG (Centre d'expertise et d'étude géologique) published a report focusing on Ngungu and Rubaya and making two claims.</p> <p>First, that untagged minerals were being smuggled out of North Kivu to Rwanda, with the help or participation of state security forces or of state agents, including by acting as escort. The ANR, FARDC, PMH, PNC were named and implied to have benefited in some way from this activity.</p> <p>Second, that minerals from non-validated sites were being fraudulently tagged and entering the iTSCi supply chain, although in this case there was no mention of state security forces involvement.</p> <p>Note that the researcher did not contact iTSCi to verify information prior to publication.</p>	<p>iTSCi contacted stakeholders to consider all available information.</p> <p>No specific evidence regarding smuggling of untagged minerals could be obtained. iTSCi teams in Rwanda were made aware of the potential risks.</p> <p>Several cases of mineral fraud in this area have been recorded in iTSCi incident reports, mainly driven by commercial issues connected with pricing and exclusive purchase rights. Prior to the scaling up of iTSCi, fraud of misrepresentation of origin of minerals from unvalidated sites may have been possible however, there are currently no unvalidated non-iTSCi sites in the vicinity, and mine sites in the report are now validated iTSCi sites. Regarding allegations of fraud at D4 Gakombe site, iTSCi followed-up via incident NK-2016-0060.</p>	<p>The incident was deemed resolved in September 2016 due to actions from command of the official services.</p> <p>At the beginning of 2016, the military prosecutor took action against recurrent cases of fraud. A list of PMH agents transferred to other areas was released, and also included ANR and FARDC agents. Later in 2016, further measures were taken against PMH agents, Republican Guards and FARDC agents for their alleged participation in fraud.</p> <p>Since July 2016, iTSCi participates in the monthly meeting of the territorial committee against fraud in Masisi. Several further cases of fraud were successfully stopped (see NK-2016-0080).</p> <p>In September 2016, all SAESSCAM and Divimines agents in Masisi were arrested or transferred and replaced, due to their alleged involvement in fraud. The provincial directors of SAESSCAM and Divimines were called to Kinshasa.</p>	<p>Although a potential risk, no direct link between tagged minerals and any non-state or state armed groups has been established.</p>
<p>NK-2016-0054</p> <p>Jun 2016</p> <p>Open: in progress</p>	<p>According to information from a whistleblower, backed-up by several stakeholders, the FARDC and the Republican Guard were collecting illegal payments at a security checkpoint barrier for a period of two weeks.</p>	<p>iTSCi monitored the barrier but did not observe any illegal taxation when passing through. Negotiants also confirmed that they did not make any payments. There are often reports of FARDC or other state security forces collecting illegal taxes on other goods but avoid taxing iTSCi minerals as they</p>	<p>The incident was last updated in January 2017 and is still in progress.</p> <p>It was reported that the incident was discussed at the provincial security council meeting and that the FARDC Commander of 34th Region wrote a letter to his soldiers forbidding illegal</p>	<p>The incident has not yet been confirmed to affect minerals.</p>

		<p>seem aware of the implications of doing so.</p> <p>There was no impact on tagged minerals as there was no confirmed payment malpractice, however, exporters and negociants provided statements to confirm that minerals would be segregated should this occur. One exporter asked all stakeholders, including state services, state security forces and the negociant association to post their statement forbidding illegal payments in their offices and set up a toll-free hotline for reports.</p>	<p>taxation at the checkpoint.</p> <p>In September 18 soldiers from the barrier were arrested for alleged involvement in mineral fraud, 2 are still imprisoned and others moved to another location. This is a separate issue; fraud would involve allowing untagged minerals to pass the barrier unchecked.</p>	
<p>NK-2016-0150</p> <p>Nov 2016</p> <p>Open: in progress</p>	<p>FARDC believed that a miner and his family were involved in attacks on ICRC vehicles on 1 November (see incident NK-2016-0137) and two soldiers sent by the Commander of the second Battalion of 3404th Regiment arrested these persons on 5th November. The soldiers requested money (about 45,000FC (~36 USD) and two chickens from the mine site director which was reportedly paid.</p>	<p>iTSCi proposed a discussion of the incident at the local stakeholder committee (CLS) meeting highlighting that FARDC could be reminded that only PMH is authorised to enter mine site, and the need for FARDC to take actions against the soldiers involved in the illegal taxation.</p> <p>The miner and family were all released a month later due to lack of evidence. There is so far no evidence that the miner was involved in NK-2016-0137.</p>	<p>The incident was last updated in January 2017 and is still in progress.</p> <p>Follow-up by the local stakeholder committee was delayed since this committee did not meet for 2 months due to the absence of its President. iTSCi has contacted the territorial administrator to address this issue and the latter promised to find a solution. A meeting is awaited.</p> <p>There is no information that the soldier has been sanctioned so far.</p>	<p>It is not possible to conclude whether specific batches of minerals were affected by the payment since the exact time of the payment is not known.</p>
<p>NK-2016-0160</p> <p>Dec 2016</p> <p>Open: in progress</p>	<p>A team appointed by the Masisi territorial anti-fraud commission comprising PNC and PMH officers is allegedly acting beyond its mandate. The team accuses miners of smuggling minerals although the materials in question are mineralised sands being transported a short distance to store prior to the necessary washing and treatment</p>	<p>The complaints made against the team were communicated to the head of the anti-fraud commission in Rubaya.</p> <p>iTSCi clarified the procedure for washing and tagging minerals with stakeholders and also clarified the mission of the territorial anti-fraud commission with Masisi territorial administrator (TA).</p>	<p>The incident was last updated in March 2017 and is still in progress.</p> <p>So far, the territorial anti-fraud commission has not met again, has not clarified their mandate, and there have been no recorded sanctions against the team.</p> <p>There has been no discussion in the CLS</p>	<p>It is not possible to conclude whether specific batches of minerals were affected by the payment since the exact time of the payment is not known.</p>

	<p>prior to tagging. This difference is visible to the naked eye. The mission of the team does not appear to be clearly defined by the territorial anti-fraud commission and there are allegations that the team is asking for payments. Two cases in which miners were requested to pay were documented. In the first case, the miner and team leader reportedly paid 1,400,000FC (~800USD); in the second case, another miner paid 21,000 FC (~16USD).</p> <p>PMH officers did not follow the required procedure to inform appropriate state services (Divimines), perform an official hearing with an official record, or to deliver a receipt of payments for the official record.</p>	<p>iTSCi proposed that the TA and PNC Commander sign a statement on prevention of illegal taxation, and advocated for payments to be returned to the miners.</p>	<p>as yet. Monies have not been repaid to the miners.</p> <p>The PNC Commander informed iTSCi that the two involved PMH and PNC officers were transferred to other positions, likely to be of lower responsibilities and this has been verified.</p>	
<p>SK-2016-0122</p> <p>Sep 2016</p> <p>Closed: resolved</p>	<p>4 armed bandits robbed negotiants on route to an iTSCi mine. The next day, the same bandits entered a mine site, stole money and goods and abducted five miners. Four miners were released while one was found dead 15km from the site. It has been claimed that the killing was revenge by one bandit whose brother had died in an accident at this mine. According to a whistleblower, bandits operating in the area often belong to Mai-Mai Nyatura, but there is so far no concrete evidence that the bandits were Mai Mai and this possibility has not been confirmed by any official sources. No minerals were tampered with or stolen.</p>	<p>iTSCi informed all stakeholders and proposed to discuss the incident at both local and provincial level.</p> <p>The CLS advocated state security forces to reinforce security around the mine site. The CLS also requested security around miners' camp to be reinforced.</p>	<p>The incident was last updated in February 2017 and is still in progress.</p> <p>A FARDC camp and a new miners camp were set-up on two hills facing each other, so that FARDC have a direct view over the miners camp for increased protection.</p>	<p>The incident is considered to be a case of criminal activity rather than activity of non-state armed groups to control the mineral trade.</p>

	A month later, another attack took place, during which three unidentified bandits were seen near to the site. They stole goods (phone, radio) from passers-by around 1 km from the mine site but no-one was harmed.			
SK-2016-0123 Oct 2016 Closed: resolved	<p>A PMH Commander allegedly acted beyond his mandate and requested money from miners for transport. The Commander and a Divimines agent were also alleged to have received bribes from two miners and a member of a negociant association who were transporting untagged bags of minerals.</p> <p>Some information remains unclear since miners allege that the Commander requested this payment, while the Commander says payments were voluntary. Payment for transport was confirmed to be 2,000FC (~ 1.5USD) although the Commander admitted receiving a voluntary payment of 1,000FC (~0.8USD). The payment given to the PMH officer to release the untagged minerals was allegedly 8,000FC (~6.1USD).</p>	ITSCi proposed that the cases of corruption should be discussed at both local and provincial stakeholder committee level (CLS and CPP) and sanctions should be taken against involved people.	<p>The incident was last updated in January 2017 and is still in progress.</p> <p>The Commander was heard before the local security council and received a warning from his superior. His superior met privately with the commander, head of the local monitoring committee, and local state services before holding a meeting with his PMH agents. No abuses have been reported since.</p>	The minerals were not within the iTSCi supply chain and no evidence of infiltration was found.
SK-2016-0156 Oct 2016 Open: in progress	At a local stakeholder committee (CLS) meeting it was alleged that the PMH (mines police) had improperly fined two miners when checking for possession of a valid miner card. No official records were signed by PMH nor were other state mining services notified as is required when fines are levied.	iTSCi considered the legal situation which is unclear. According to the mining code, miners should be in possession of a miners card issued by the Mines Administration, but there is no information in the code or in the mining regulation about sanctions, with no mention of fines. However, PMH officers can arrest miners and carry out	<p>The incident was last updated in January 2017 and is still in progress.</p> <p>The local committee is involved in mitigation and iTSCi is still gathering more information. It appears that the PMH may have collected a bribe rather than an official fine.</p>	There is so far no conclusion regarding impacts on mineral batches since clarity on the legal question would be required to determine the status of the payments.

		<p>an official hearing. In these cases, an official record must be written and signed, which reportedly leads to automatic fines.</p> <p>According to information available so far, no official records were signed by PMH although they appeared to receive 100,000FC (~77USD) from the first miner, and 81,000FC (~ 62USD) from the second. If PMH is making official checks they should inform other relevant state services such as the Divimines, which they did not do in this case.</p>	<p>It has already been agreed that miners will carry a copy of their documents with them at all times and the local committee will also request better cooperation between PMH and Divimines.</p>	
<p>KT-2016-0004</p> <p>Jan 2016</p> <p>Closed: unresolved</p>	<p>During a meeting with companies and cooperatives, employees from 2 exporters stated that they had been asked to pay certain taxes in one territory and not others. These were alleged to be of several hundred USD per month.</p>	<p>iTSCi investigated the accusations and compiled a list of taxes and fees collected at different frequencies, many of which appear to be illegal, and some of which are paid to FARDC, ANR, and PNC. iTSCi is attempting to determine the exact duration of these payments. Local civil society was not aware of the alleged payments.</p> <p>iTSCi advocates for a resumption of the illegal taxation working group chaired by the DRC Ministry of Mines to document all legal taxes and distinguish them from illegal ones. This would supplement a previous iTSCi report on payments in the region.</p>	<p>The incident was closed as unresolved as no official statements attesting to the alleged facts of the incident could be obtained.</p> <p>The lack of engagement by those concerned meant insufficient evidence could be gathered to support the initial allegations.</p> <p>The low-ranking employee who made the allegation of one of the exporters was later fired for absconding with cash from the company, negatively affecting the credibility of this claim.</p>	<p>Insufficient information could be obtained to evaluate any impact on minerals.</p>
<p>KT-2016-0131</p> <p>Aug 2016</p> <p>Closed: resolved</p>	<p>4 soldiers from the Republican Guard loaded 22 bags of untagged minerals into a jeep with several local traders. They scuffled with police trying to stop them, struck several civilians, including miners, and departed with the minerals. Minerals were never</p>	<p>iTSCi checked warehouses in the vicinity, including negociants' and mini-depots for suspicious activity but did not locate the minerals. Trade volume data was also evaluated.</p> <p>iTSCi warned all member companies</p>	<p>The incident was last updated in March 2017 and deemed as resolved.</p>	<p>No infiltration of minerals into the tagged supply chain was detected. Infiltration would have been a possibility but there is no evidence to suggest that.</p>

	found.	including in the two relevant territories, exporters and smelters to be vigilant against the infiltration of the untagged minerals into their supply chains. Exporters acknowledged this information on this risk.		
KT-2016-0147 Sep 2016 Open: in progress	iTSCi was informed that a FARDC security checkpoint barrier which had been erected to prevent illicit transportation of minerals was being used by soldiers to collect illegal payments of between 650 and 1,300FC (~0.5 and 1USD) from miners and negociants. It was reported that this had occurred every day for 3 weeks. There is conflicting information about the regularity of the fees and if all miners and operators were subject to them. The area in question is large with various production sites.	iTSCi contacted the provincial minister of mining and the mining advisor to the governor, who instructed the checkpoint to be dismantled. iTSCi informed companies and requested members who had purchased minerals from the affected region during the relevant time to put them aside, as well as to produce a due diligence report on these minerals.	In March 2017 the incident is still in progress. iTSCi received confirmation from companies that materials were set aside or not subject to tax. However, it later appeared that some mineral may have been exported. Further evidence of due diligence is awaited.	Further work is continuing to evaluate any impact on minerals.
KT-2016-0160 Oct 2016 Open: in progress	An FARDC soldier alleged that one company was paying his unit to discourage miners from selling to competitors. It was also alleged that a PNC jeep was used to transport untagged minerals for sale to the same company. A government agent said these minerals are tagged elsewhere, but refused to say where. No corroboration of these statements could be obtained.	iTSCi is investigating and collating information on the issue including through contact with higher level FARDC command. iTSCi is also working with stakeholders to put systems in place that enable exposure of such practices without reprimand. iTSCi has worked with the local civil society to seek further information. The company's normal buyers have been informed.	In March 2017 the incident is still in progress. The alleged practice was reported to have ceased after a November 2016 meeting between the territorial administrator and the company in which the former reprimanded the latter. Registered production volumes were consistent at the concerned mine site and nearby sites during the period during which the incident was alleged to have taken place. Therefore, while it is possible that small volumes of minerals related to the incident were fraudulently infiltrated into the iTSCi	Further work is continuing to evaluate any impact on minerals.

			supply chain, evidence cannot prove this possibility.	
KT-2016-0174 Nov 2016 Open: in progress	Two FARDC soldiers entered the house of a cooperative worker and illegally took 380 USD.	The two soldiers were arrested by military police and taken for trial. iTSCi is following the outcome of the trial and whether stolen monies will be reimbursed. iTSCi have also requested the FARDC unit write a letter condemning the behaviour of the soldiers.	In March 2017 the incident is still in progress. The soldiers have been transferred to the military court in Lubumbashi and other soldiers in the area where the incident occurred have been transferred out of the area to reduce the likelihood of similar incidents.	There is no direct impact on minerals.
KT-2016-0197 Dec 2016 Open: in progress	Miners informed iTSCi of a long-running dispute between the PNC and PMH in which the PNC allegedly worked with a company to evict the PMH from mines and prevent them from regularly visiting mine sites. PNC were said to visit the mine sites while armed and there is some suggestion that PNC officers are involved in mining. It is PMH that has the mandate to police mines.	iTSCi is attempting to investigate and corroborate the information on the nature of involvement PNC may have in mining and if there are services or payments exchanged between PNC and miners or companies. Local civil society are also making enquiries on this incident. Currently there is no evidence and therefore direct sanctions by iTSCi against companies are therefore not possible. Credibility of the information may be affected by an ongoing dispute between two companies over concession boundaries.	In March 2017 the incident is still in progress. So far, it has been established that the local PNC officer and a company employee are friends on a social basis but this does not provide sufficient evidence for further action. Local civil society members consulted on the issue also claimed they could not find any evidence of control or involvement in mining by PNC.	Further work is continuing to evaluate any impact on minerals.

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