



Telephone
+44 (0)1727 875 544

Fax
+44 (0)1727 871 341

Internet
<http://www.itri.co.uk>

ITRI Ltd
Unit 3, Curo Park, Frogmore,
St. Albans, Herts AL2 2DD, UK

Zobel Behalal
Acting Coordinator, GOE on the DRC pursuant to resolution 2293 (2016)
c/o Mohamed Sesay Kanja
Acting Secretary, Security Council Committee 1533 (2004)
United Nations Secretariat
TB-08041 A
New York
NY 10017
USA

Via email to: sesaym@un.org

4th September 2017

Dear Zobel,

I would like to make some observations and comment on the recent UN GOE report *S/2017/672* on behalf of the iTSCi Programme and you will find these below. We also have some questions for clarification of mine site names and events and would appreciate if you could kindly provide some further clarification on certain points as indicated by underlining;

General Remarks

- We appreciate that the GOE recognises the positive impacts of iTSCi (para 74) and agree on the importance of improving the performance of government agents, and therefore the overall governance of the sector. However, **in the interests of balance**, it would be fair for the GOE to in future report how iTSCi provides multiple training events and extensive support for those government agents when also noting deficiencies in their performance. It would also be interesting to refer to positive outcomes of incidents which include improved performance¹.
- We do not agree that there can be any significant improvement in the design of the iTSCi procedures in themselves (para 76) although we certainly recognise that **implementation** of procedures in the field environment in DRC has multiple challenges which could be improved and which we address whenever, and by whatever means are possible.
- We would appreciate if future reports could provide clear estimates on the **relative scale of financing** potentially reaching armed groups via trade in different resources. For example, there is no indication of the amount of financial benefit from gold in section B, and what appears to be a large possible sum of US\$42,000 *per week* reaching the FDLR from charcoal trading described in section C, para 136-140. I would suggest that financing from both gold and charcoal amounts to much more significant amounts than currently the case with 3T minerals, especially those monitored by iTSCi, and this should be recognised. We don't of course claim that no iTSCi minerals are affected by illegal payments

¹ See <https://www.itri.co.uk/itsci/news/itsci-report-demonstrates-effective-risk-management-outcomes-in-3t-minerals-supply>

but the smaller amounts recorded via our incident system are already transparent. **It seems unlikely that financial benefits to armed groups from 3T minerals are sufficient to ‘fuel ongoing insecurity’** as suggested in para 73. It is important for readers of the GOE reports to understand the context of the information on each resource in order to understand what might be a priority concern.

- Note that ‘ITRI Ltd’ does not have any direct staff except in the UK, and **staff should in future be referred to as iTSCi field officers**. Similarly, ‘ITRI Ltd’ does not issue ‘instructions’ to government agents or others. We work in partnership with stakeholders and Pact manage and advise on local activities according to expectations of the OECD guidance and the traceability process. Major decisions (for example on approving new mine areas) are made by the iTSCi Governance Committee of ITRI and T.I.C. representatives.

Bisie

- We do not understand para 78 which states that ITRI authorised tagging from the non-validated site of Bisie between Feb and Nov 2016. This is not correct and since we **cannot recall any activities that occurred specifically between those dates** would appreciate clarification from you on this matter. If you are referring to the removal of Bisie stock via the multi-stakeholder agreed process and use of coloured tags, this occurred between 13 October 2015 and 31 December 2015 as you will have seen from the public reports on this activity².
- Para 79 states that cassiterite from other validated sites in the area was illegally tagged in Njingala trading centre. As previously stated, the risk of misrepresentation of origin of minerals is an ongoing challenge which we recognise. In Walikale, an incident was opened to address these risks, and to inform our members and Congolese authorities, so that mitigation measures could be developed, agreed upon and implemented [Incident NK-2016-0075].
- Para 79 makes assumptions regarding non-verified iTSCi data in Annex 36, however, various **factors on the ground explain the fluctuation of production** at the end of 2016. At Camp Plaine and Camp Briques, a new cooperative (COMIMA) started activities in October 2016, bringing new miners who benefitted from the cooperative’s technical and financial support. In November 2016, activities at all iTSCi sites were boosted by increased cassiterite prices offered by negociants and continuous cash flow between exporters and negociants to the miners. This also facilitated other activities, for instance on channelling water to the mine site, thus easing washing of minerals and fostering production. This was in particular the case at Angisi site for that month. Fluctuations can also result from the fluid movement of artisanal miners, who are very mobile and can move from site to site depending on opportunities. This was for instance the case in November 2016 at Amamokoa site, where miners abandoned a tantalite pit to focus on cassiterite with financial support continuing in December 2016. At Bisagowa site, COMIMPA cooperative supported miners in reopening, dewatering and digging old and new pits, resulting in an increase in production that month.
- Para 80 states that production in Kalay Boeing fell to zero in March 2017 due to the beginning of ‘investigation of irregularities’ in Walikale. As noted in our letter of 14th June 2017, Kalay Boeing was suspended from iTSCi between 7 Jan and 12 April with no official production, meaning that production was zero in March, but also before that time. Investigations did not begin in March, but, as explained in our letter from June “In **March 2017, iTSCi put in place strengthened measures of tag distribution in Walikale** to further reduce possible misrepresentation of origin of minerals from non-iTSCi sites [Incident NK-2016-0157]. These measures allowed the provincial authorities to uncover illegal transport of untagged minerals in Walikale territory and the presence of large quantities of

² See <https://www.itri.co.uk/itsci/news/reports-describe-bisie-drc-stock-clearance-process-and-outcomes>

stocks in several negociants depots. This mineral is considered to have been sourced from Bisie mining area which is not validated, but on which there have been no recent reports of armed group activity. Recent high level stakeholder discussions resulted in an agreement for iTSCi to tag minerals mined in Bisie for a period of 7 months during which artisanal miners will be encouraged to move away from the Alphamin Bisie concession.”

- The GOE state (para 81) that peaks and troughs are too pronounced to result from normal production cycles. We agree that production patterns are not easy to interpret, especially at artisanal sites, but contend that **‘normal production cycles’ have never been established** for the sites mentioned by the GOE. All sites in Walikale that had suffered under embargo for many years required work to re-establish pits, and such work, as well as purchase of production, relied on available finance from potential buyers many of who were also blocked by slow movement of minerals and cash from older Bisie produced stock. Additional factors such as weather and the amount of water available for washing, as well as security and reliable transportation all play a part. Production was on and off at many sites since the first was opened in Walikale in April 2015. We do not consider it appropriate to conclude anything from the un-validated data in Annex 36 covering a short period of time, as well as a time of great change, including security issues and suspensions. Please also see the report from Synergy Global Consulting *‘Governance Assessment: Walikale territory, North Kivu, DRC’* for further information on some of these points regarding sites in Walikale³.

Mpafu/Nyakoba

- **We do not recognise the name of this site** which appears to be unknown by the local Division of Mines or SAESSCAM and is not on other sources of information such as an IPIS map. Please could you kindly provide clarification on its location. If you have further information to provide then it can be added as evidence for the incident that has now been opened [NK-2017-0192].
- Note that para 83 says that minerals are stocked in a warehouse of the Eglise de la Pentecôte pour l’Evangélisation du Monde (EPEM) church, in the village of Nyamianda, 5 km south of Walikale town but that this village is located northeast of Walikale town.

Transport of minerals

- Para 85, Annex 38 refers to Kashebere and a negotiant named Morefu Karati. This negotiant is registered in our iTSCi records and is named Murefu Karani, who appeared to have been transporting the 5 tonnes declared goods from Walikale (iTSCi validated site of Camp Plaine) to Goma. There does not appear to be any suggestion on the document in the GOE report that states the material is from Bisie so we are **unsure why the connection to Bisie has been assumed** by the GOE, please could you provide clarification. Annex 38 mentions two cases of minerals allegedly from Bisie transported and stopped on 7 February 2017. At that time, as mentioned above, there was no tagging at Bisie site, and thus no transport of tagged minerals from Bisie. A new incident has been opened on this question [para 86, NK-2017-0193] as well as on bribes payable for under-reporting weight [para 87, NK-2017-0194].

Rubonga

- Para 92 suggests that minerals sourced from Rubonga while active in the iTSCi programme benefited ‘Colonel’ Tumusifu. In 2016, we opened an incident when armed groups started to take control over the Mahanga area [Incident NK-2016-0123], however, our **field investigations to date have not uncovered any evidence of support to armed groups**. As stated in our letter sent of 14 June 2017

³ See <https://www.itri.co.uk/information/itsci/itsci-governance-assessments/itsci-governance-assessment-walikale-north-kivu-drc-english>

“The UN report further says, para 82, that members of the armed group “Guides” were present at mine sites and, according to a stakeholder working in mining and a representative of the civil society, received money from miners working at mine sites in Mahanga. According to annex 28, these “Guides” were later split in several sub-groups, respectively led by “General” Luanda (who renamed his groups Forces de Défense du Congo, FDC), “Generals” Mbura and Bwira (who refer themselves as Guides-Mouvement acquis au changement, MAC). These “Generals” are all named in our incident update reports. While the GOE remarked in para 82 that elements from the armed groups “received money from the mining actors operating at the sites in Mahanga” we do not as yet have any evidence to substantiate that point.” We therefore **cannot agree with the conclusions of the GOE** on this point.

- In light of new information mentioned in para 92, a new incident has been opened [NK-2017-0195].
- Para 94 notes that the missing tags were located at an exporter ‘only’ after 6 months which seems to imply some GOE perceived issue in control which does not exist. As mentioned previously, the exporter was inactive/closed for that time due to the adverse market. The period of time is not relevant. In fact, **the concerned exporter acknowledged receipt of our alert one week** after our email was sent. iTSCi staff also confirmed that the exporter had segregated the concerned bags and that the minerals had not been replaced by other material (e.g. sand) and illegally sold, tagged with other tags, or mixed with other iTSCi minerals.

Kalay Boeing

- Para 96 notes that ‘General’ Mando visited the mining site of Kalay Boeing recurrently from 7 Jan 2017. Precisely, as outlined in my previous letter (page 3), and according to staff on site, Mando was present **around** the area of the camp from 7-9 Jan and 23 Jan to 3 Feb. He did not visit the mine site. The mitigation measures undertaken as a result of this led to Mando committing to refrain from coming to any validated mine sites or along the mineral transport route from iTSCi sites to the trading towns, which he respected in spirit, sending unarmed men only once to the site (in August 2017) for the sole purpose of re-confirming this commitment after a split within the Simba group. You may have misunderstood our discussion on this point as reported in para 98; **we did not state that Mando was continually present in Kalay Boeing**, we stated that he was in the area, but committed to stay away from 3T mineral production and trading since his main interest lies in gold.
- Para 96 implies a continued influence of FARDC from Biruwe in ‘mining operations’. While FARDC have been known to collect illegal taxes along the transport route, **there is no evidence to suggest direct involvement with 3T mining at Kalay Boeing** site; the FARDC are also likely to have a greater influence in the nearby gold production areas although this differentiation is unfortunately not made in the GOE report. We have opened an incident on this point but have also closed it as inconclusive as there is no supporting evidence [NK-2017-0196].
- It is disappointing that other mitigation measures implemented by a range of actors have not been noted in the GOE report in order to add balance to the view presented. As the GOE will be aware, **iTSCi and exporters have reported and acted upon all recorded concerns and have achieved removal of illegal taxation, commitment from Mando not to come Kalay Boeing village or other validated sites, as well as strengthened tag management measures which resulted in provincial authorities uncovering illegal transport** of untagged minerals in Walikale territory and the presence of large quantities of stocks in several negociants depots [see previous letter and incident NK-2016-0157]. Different cases of misuse of tags were also rapidly uncovered by iTSCi, recorded in incident reports and followed up at the local level to prevent associated minerals to enter the supply chain. This has been achieved even when faced with challenging and difficult scenarios to resolve.

- Recommendation d) from the GOE suggests a renewed focus on fighting corruption and iTSCi would welcome this from all national and local authorities with whom we partner in implementing the iTSCi programme. We also continue to strengthen control by implementing joint management of tags by local state services, cooperatives and concession owners, as well as continually discussing other implementation improvements with stakeholders. For example, iTSCi recently led a commission set up by the North Kivu coordination of the national commission fighting against fraud in mining (CNFLM) to improve implementation of traceability in Masisi territory.

We would be happy to further discuss with the group any aspects of this letter that may not be clear, and appreciate if you could forward the requested clarifications.

Yours sincerely,



Kay Nimmo,
Manager of Sustainability and Regulatory Affairs, ITRI Ltd, &
ITRI Representative to the iTSCi Governance Committee

Copy to:

- David Bishop <david.bishop@itri.co.uk>
- Matthew Rycroft, UK representation, <uk@un.int>
- Sandra Iranzo <iranzo@un.org>
- Craig Mills <Craig.Mills@fco.gov.uk>
- Sally Jobbins <Sally.Jobbins@fco.gov.uk>
- Jessica Philips <Jessica.Philips@fco.gov.uk>
- Rebecca Lambert <Rebecca.Lambert@fco.gov.uk>