



Hilary Clinton
Secretary of State
U.S. Department of State
2201 C Street NW
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USA

By Fax: +1 202 647 1579

4th November 2010

Dear Secretary Clinton

RE: High risk of increased insecurity and sexual violence in eastern DRC from US conflict minerals legislation

We are writing from ITRI, the international tin industry trade association, and from T.I.C., the equivalent tantalum-niobium international trade association; the only organisations operating a due diligence programme on the ground in the DRC addressing the conflict minerals issue. We would like to bring to your attention;

- a) International and local African concerns regarding the too rapid implementation timescale of the US conflict minerals legislation, the resulting de-facto embargo, and likelihood of increased insecurity and sexual violence, and,
- b) Our request for concrete assistance from the US Government or USAID for the necessary expansion of our minerals due diligence and traceability programme.

The ITRI Tin Supply Chain Initiative (iTSCi) has been operating at pilot sites in the DRC for several months, and has also recently been adopted in Rwanda. It is the only due diligence system recognised by international mineral processors for both cassiterite and coltan, and by the potential purchasers of the resulting metals. We are pleased to have the support of, and be able to work with the entire supply chain from Africa to the US. The iTSCi scheme is also supported by the DRC and Rwandan Governments and will be part of the regional certification mechanism proposed by the ICGLR.

Timing of the US conflict minerals legislation

While our industries agree entirely with the intentions of the 'conflict minerals' legislation, and we are committed to make a change in the DRC, we are also extremely concerned about the impacts that it will have on the ground if supply chain regulation of the exploitation and trade of mineral resources, and control the associated sexual and gender based violence, and other human rights abuses known to exist in that area, is not in place across the whole region by April 2011.

April 2011 is the date after which no metal end user, in any international market, will be prepared to purchase cassiterite or coltan from the DRC, or adjoining countries, which has not been purchased through a recognised due diligence scheme i.e. the iTSCi system. This is a direct result of disclosure and liability issues arising from the US legislation. High expectations, short timescales, extensive demands on manufacturing companies, together with potential for negative publicity, sadly creates a significant incentive for any metal buyer to choose to purchase from anywhere else but the DRC. The majority of metal users have already chosen to take this route and exports have already been falling.

If a massive and rapid expansion of the iTSCi system is not implemented immediately a purchasing embargo for African minerals will exist from 1st April 2011 and we are afraid that industry alone will

simply not have the resources to implement the required system across the 11 affected countries of Africa within such a short timescale.

During your visit to Goma in August 2009 you pledged that the US would “work with individuals, the private sector and civil society to try to help resolve the conflict and provide a better future” and we believe that now is the critical time for the US to find a way to assist.

You have often been quoted as wishing to partner with the DRC and please be reassured that those local companies and individuals are a key part of our iTSCi system. They are keen and willing to play their part in this process and we hope the US will now show your direct and concrete support to them.

Potential impacts of the US led de-facto embargo from April 2011

The current mining suspension introduced by President Kabila provides an indication of the effects that the US led de-facto embargo will have from April next year. While it is recognised that a percentage of mineral wealth reaches armed groups, it should not be forgotten that it is also an essential part of the economy of the region and removing that economic opportunity has very serious negative and de-stabilising effects. As a recent paper by a respected NGO¹ in Goma states in relation to the current mining suspension;

“The collapse of the local subsistence economy has plunged the people into indescribable poverty.”

“For an economic sector known for its importance in view of the returns from mining products which represent two-thirds of the official revenues of the province of North Kivu, the suspension of mining activities in Eastern DRC is comparable to a sufferer of a respiratory illness from whom the oxygen mask is suddenly snatched away.”

Without immediate action, and your support to implement the iTSCi programme, there is a high risk that the US legislation will serve to exacerbate, rather than reduce support to illegal armed groups and sexual and gender based violence as a de-facto ban is created and opportunity for economic growth set back by many years;

“Many people are also afraid that among the thousands of artisanal miners who left Walikale for the towns of Goma and Kisangani there are former militia members who might rejoin their former armed groups to live by the Kalachnikovs they had previously abandoned.”

“In a regional context where recent presidential elections in Rwanda and Burundi have provoked internal rivalries to the regimes in place, some fear that the east of the Congo will become a sanctuary for opposition armies against these neighbouring countries.”

Removing the opportunities that exist from the mineral sector also affects women traders and community leaders as much as, if not more than, other stakeholders. Many are now unable to make a living by legitimate means and may turn to less desirable and potentially exploitative alternatives in order to provide support for their families;

“These women traders of subsistence crops estimate that the free fall in food prices (and their earnings) will continue for as long as the suspension of mining activities in the Eastern DRC is in force.”

“Issa is the father of six children. He is the owner of a depot that the traders use for the transit of their products to and from Walikale. Today he is unemployed and unable to pay school fees for his children who have since been dismissed from school.”

You have previously made reference to the Congolese proverb “No matter how long the night, the day is sure to come.” Unfortunately, if the US conflict mineral legislation comes into force next April without widespread coverage of the Great Lakes regional minerals trade by the iTSCi due diligence/traceability scheme, trade will not continue, daylight will be a very long way away indeed and unlikely to return for many years.

¹ The Pole Institute, <http://www.pole-institute.org/> THE IMPACT OF THE SUSPENSION OF ARTISANAL MINING IN EASTERN DRC, 25 October 2010

Request for US backing for expansion of the iTSCi scheme

The iTSCi scheme has been piloted in South Kivu and has demonstrated the ability to trace mineral from the mine site, through traders and exporters, to the final smelter. It was also planned to pilot in North Kivu before the current mining suspension arose. These field activities, and the development of an auditing method and an on-the-ground risk assessment team, has been carried out with funding from industry members in the DRC and internationally.

The potential set-up and initial operation cost for the necessary expansion of the scheme in key areas of the DRC and Rwanda may be estimated at a minimum US\$6m – to cover field activities, data management, community involvement, auditing and risk management planning. Further funding would be required for implementation in other adjoining States.

Concrete backing from the US for our iTSCi project will be essential to the programme's success. This backing would need to be both in terms of;

- General recognition that the system represents due diligence acceptable to the US legislators, and,
- Significant and immediate financial backing for the set-up of the system to cover the maximum possible percentage of central African mineral production by April 2011.

As noted above, minerals not covered by the scheme will have no access to international markets from that date.

Specifically we are hoping that you may include both kinds of support for our project in the State Dept/USAID plan due to be developed under the 'conflict minerals' legislation by January.

Note that the iTSCi system is designed to meet the requirements for due diligence outlined in the OECD guidance that has been developed over the past year through consultation with multiple stakeholders. The OECD guidance increases industry control and the accountability of armed groups, aims to reduce corruption, and prevent or mitigate negative influences on the minerals supply chain which relate to conflict, human rights abuses and sexual violence - while allowing trade, and related injection of US\$'s into the community to continue.

We hope that you find this letter of interest and are looking forward to hearing your suggestions on how we can move forward together with the people of the DRC in this very challenging situation.

Yours sincerely,



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