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Fazli Corman (Turkey)
Chairman of the Security Council Committee concerning the Democratic Republic of the Congo
United Nations
New York
USA

24 September 2009

Dear Mr Corman,

RE: cassiterite purchases from mining areas within the Democratic Republic of Congo

As Chairman of the Security Council Committee established pursuant to resolution 1533 (2004) you will be following the work of the Group of Experts which is due to report under resolution 1857 (2008) during November 2009.

In relation to these resolutions I am writing from the global tin industry representative body ITRI, to;

- a) inform you of the steps taken by our industry towards improved due diligence in the cassiterite supply chain within the DRC and the Great Lakes Region over the past year, and
- b) request that the Security Council establishes a system of precise buy/don't buy guidance on the acceptability of minerals from individual mine sites, either as part of the expected review of the sanctions regime before 30th November 2009, or by any other appropriate means.

a) Industry Progress on Due Diligence

Tin smelter members of ITRI (Malaysia Smelting Corporation "MSC" and Thailand Smelting Corporation "Thaisarco") who source minerals from the DRC have striven to act upon recommendation 14 of report S/2008/773 of 21 November 2008 requesting that due diligence is conducted on suppliers and that verbal assurances regarding the origin of materials are no longer accepted. The resulting ITRI Tin Supply Chain Initiative 'iTSCi', the details of which were provided to the UN in May 2009, was developed with the co-operation of both international traders and representatives of industry within the DRC. This plan clearly demonstrates a widespread tin industry commitment to a phased improvement of supply chain interaction, documentation and formalisation over the course of the next 2 years. At the same time, it is important to recognise that while our members are using every effort to meet the requirements of the UN, other smelters remain outside the iTSCi process.

Phase 1 of the iTSCi scheme focuses on the immediate supply chain from the DRC exporter/comptoir to smelter and introduces a newly agreed industry procedure for requiring a range of export documents, as well as a specially designed 'comptoir certificate' which provides a written record of the physical description of the material, a declared mine origin and transport route via the intermediate 'negociant' supplier.

Phase 1 documentation has been required for all purchases by ITRI members from the 1st July 2009 on all shipments believed to originate in the DRC, whether exported from the country itself or from neighbouring countries of the Great Lakes Region. Over the 3 month introductory period from July significant improvements in the level of reporting and documentation of origin have been achieved. Member companies are adopting a zero tolerance regime such that appropriate written documentation is now available on all shipments.

Aside from iTSCi, comptoirs have also demonstrated commitment to move forward working with our members to achieve more detailed due diligence, particularly in specific instances where parties may have been cited in previous UN Group of Experts reports.

We believe that the implementation of Phase 1 of the iTSCi scheme is a significant and positive industry step which renders Member State action under recommendation 14 of report S/2008/773 unnecessary.

We do also recognise that further actions to secure and verify information on origin further up the supply chain to mine site level remain necessary and as a result we currently continue to devote a significant level of resource and attention to the development of the next phase of iTSCi. Phase 2 of the scheme will extend our level of knowledge and control by collating upstream supply chain information from mine to exporter/comptoir. We are already in consultation with possible project partners within the DRC on this matter from both relevant technical organisations and official services (e.g. the Ministry and Division of Mines, CEEC and SAESSCAM) but it will not be possible to complete this stage of work until 2010.

Looking further ahead, it is the intention for Phase 3 to establish a more detailed set of supply chain performance standards and ratings that will allow both qualitative and quantitative assessment and reporting of a range of factors at each level of the supply chain, however, this will not be feasible until after 2010.

We request that the Security Council recognises the progress made to date through Phase 1 implementation, provides encouragement and motivation for continued involvement of responsible companies within the tin supply chain, and allows for a reasonable time for development of Phases 2 and 3 of our work. This will in turn allow Member States to achieve the aims expressed in Clause 15 of Security Council Resolution 1857 (2008).

b) Request for Specific Purchasing Guidance from the Regulatory Community

Recommendation 13 of report S/2008/773 of 21 November 2008 suggested that a map of mineral-rich zones and armed groups was made available to 'remove uncertainty among commercial entities with respect to the origin of minerals purchased from areas controlled by armed groups.' *While Member States have indeed generated such a map with the assistance of the NGO IPIS there unfortunately remains considerable uncertainty among smelters and their suppliers over the interpretation of the information presented, and the correct actions to take as a result.*

There is also a concern that the map does not reflect on-going changes in the security situation, and that, as a result, it is inevitably prone to an increasing level of error. On a practical level, a high graphic website can be difficult for local users in the DRC to access with limited internet facilities thus reducing its effectiveness. Most importantly, on an ethical level, industry does not consider that we individually, or jointly, possess the necessary experience, knowledge or expertise in matters of security or human rights, to determine which mine sites should be considered suitable, or not suitable, for the continued provision of minerals. In order for the aims of the Security Council to be achieved, it is absolutely essential for members of the supply chain to be fully aware of the exact requirements of the international community.

Industry therefore requires that a clear, simple and current list of mine sites is regularly provided by the Security Council with a clear 'buy/don't buy' message attributed to each. We call on the UN Security Council, in consultation with the Group of Experts, MONUC, bodies of international stakeholders such as the Task Force on Illegal Exploitation of Natural Resources in the Great Lakes, as well as the Government of the DRC itself, to provide specific and definitive guidance to industry on purchasing behaviour.

Following receipt of such guidance from the Security Council, or any other designated body, industry commits to implement any required purchasing ban to the best of our ability, and as soon as possible. Of course, we would hope that the international community will be prepared for the subsequent

impacts of those requirements in terms of displacement of workers and the need for provision of alternative livelihoods, increased security risks or other potential implications.

c) Summary and Impact Assessment of UN Resolutions

Responsible industry members are making every effort to comply with UN recommendations on due diligence (see section a), but have not yet been provided with the necessary guidance on purchasing (see section b) which would allow them to understand, and act upon, the requirements of the international community. As a result of this lack of specific instruction on purchasing, industry remains subject to an intense and unreasonable level of very public criticism leading to real and significant reputational damage and business difficulties. Industry cannot move forward in such a framework of uncertainty.

The involvement of ITRI members in the region is unsustainable under the current circumstances and continued trading, as well as further development of the iTSCi project past Phase 1, may be unlikely to continue if the Security Council does not take account of the points expressed above, i.e;

- a requirement for positive recognition of progress to date
- motivation for, and encouragement of, further due diligence methodology development,
- a recognition and acceptance of a realistic timescale for improvements, and
- the provision of exact buy/don't buy guidance for each cassiterite mine site in the region.

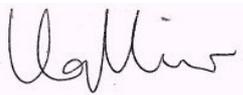
The withdrawal of ITRI smelters from the market for DRC minerals has now become a reality, as evidenced by the recent Thaisarco announcement of suspension of trade in the region. Such disengagement by responsible international companies who already have a demonstrated commitment to due diligence development represents a tragic loss of opportunity for the mineral trade and socio-economic development of the eastern DRC region.

ITRI has long held the view that a realistic and stepwise approach towards improvements in the trade is the only realistic way forward, and has warned that demands from external stakeholders for strict and immediate measures would result in an embargo on the trade. Unfortunately, this de facto ban has become a very real possibility.

We believe that the Security Council does not intend or wish to be responsible for such an unfortunate consequence of its current resolutions. Please could you therefore ensure that the information contained in this letter, and the request for purchasing guidance, is brought to the attention of the Members and President of the Security Council as a matter of utmost importance for consideration in advance of the sanctions regime review.

I would be happy to provide any further information that you may require to assist in further discussion of this matter and hope that the required guidance will be provided to industry as soon as possible.

Yours sincerely,



Kay Nimmo
Manager of Sustainability and Regulatory Affairs

cc.
David Bishop, Managing Director, ITRI
Representatives of the ITRI Working Group

His Excellency Minister of Mines, Martin Kabwelulu
His Excellency Vice Minister of Mines, Victor Kasongo
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