

DEMOCRATIC REPUBLIC OF THE CONGO

NORTH KIVU PROVINCE

Goma, 1 JUNE 2022

No. 01/624/CAB/GP-NK/2022.

The Governor

Copy **SENT** for information to:

- His Excellency the Deputy Prime Minister, Minister for the Interior, Security, Decentralisation and Customary Matters;
- His Excellency the Minister for National Defence and Veterans;
- His Excellency the Minister for Mines;
(ALL) at **KINSHASA**.
- The Vice-Governor of the Province of North Kivu;
- The Principal Advisor to the Governor in charge of Mines;
- The Members of the Committee for Monitoring Mining Activities in the Province of North Kivu;
- The Members of the National Committee for Combatting Mineral Fraud in North Kivu;
(ALL) in **GOMA**.
- Head of the OECD in PARIS/France;
- Head of INTEL CORPORATION;
- Head of APPLE Inc
(ALL) in **CALIFORNIA/USA**.
- Head of TESLA in **TEXAS/USA**.
- Head of the Mining Foundation, RMF;
- Head of the Mining Index, RMI;
(ALL) at **NYON/SWITZERLAND**.
- Head of the International Tin Association, ITA in the **UNITED KINGDOM**.
- Head of the Tantalum-Niobium International Study Center, TIC in **GENEVA/SWITZERLAND**.
- Head of iTSCi in HERTFORDSHIRE, **UNITED KINGDOM**.
- Heads of Life and Peace Institute;
- Head of Responsible Minerals Initiative (RMI);
- Head of the London Bullion Market Association (LBMA);
- Head of the Association Connecting Electronics Industries (IPC);

- Head of the European Partnership for
Responsible Minerals (EPRM)

SCOPE:

Global Witness Report, April 2022.

Response of the Provincial Government of North
Kivu.

To the Head of the NGO Global Witness at
Buchanan House 30, **HOLBORN,**
LONDON/UNITED KINGDOM.

Dear Sir

Please find attached to this letter the response
of the Provincial Government of North Kivu to the British NGO Global Witness Report published in April
2022.

Indeed, apart from the responses of the other
implicated stakeholders in the North Kivu mining sector which you have already received, the
aforementioned report has been analysed and taken account of by the Committee for the Monitoring of
Mining Activities in the Province.

Therefore, I am sending you this response to
your various unfounded allegations which do not come close to the reality of the situation in situ today.
I am also resending to you the note made available to your organisation by SAEMAPE and the Provincial
Division of Mines and Geology of North Kivu as well as the map demarcating the mining areas PE 76 of
SAKIMA SA and PE 4731 of SMB SARL.

Hoping, this time, that you will take this
response in good faith.

Yours sincerely.

= : NDIMA KONGBA Constant: =

Lieutenant-General

[stamp of the DEMOCRATIC REPUBLIC OF THE CONGO – PROVINCE OF NORTH KIVU

Office of the Provincial Governor]

DEMOCRATIC REPUBLIC OF THE CONGO

PROVINCE OF NORTH KIVU

The Governor

RESPONSE OF THE PROVINCIAL GOVERNMENT OF NORTH KIVU TO THE

REPORT OF THE NGO GLOBAL WITNESS DATED APRIL 2022. –

The Province of North Kivu has read the report entitled “***THE ITSCI LAUNDROMAT: How a due diligence scheme appears to launder conflict minerals***” as well as all the recommendations formulated for the attention of the Government of the Democratic Republic of The Congo and the various stakeholders upstream and downstream of the COLTAN supply chain, in particular in the area of Rubaya in Masisi Territory.

To gain some certainty, on 9 May 2022, His Excellency the Governor of the Province of North Kivu convened a meeting of the Committee for the Monitoring of Mining Activities (CSAM) in The Province and invited the participants to analyse its contents and evaluate possible consequences for the mineral supply chains in North Kivu in general and for that of Masisi in particular.

From introduction to conclusion of this report, the Province of North Kivu examined the real motivation of Global Witness who deliberately describes the minerals from the Masisi supply chain as “conflict minerals”. Several allegations made by this British NGO are designed to harm the reputation of North Kivu minerals and the stakeholders in order to remove them from the international market.

It goes without saying that some stakeholders are not ecstatic about the strategic position that the Democratic Republic of the Congo has enjoyed on the international market since 2017. Indeed, the re-emergence of the Democratic Republic of the Congo into prime position as the world’s leading producer of COLTAN may give rise, among some stakeholders, including multinationals struggling to position themselves, to a desire to discredit without reason the supply chain in the Democratic Republic of the Congo in favour of other chains, as well as COLTAN from the Republic; consequently to thwart the efforts of the Government of the Republic to intensify its acquisition of the various tools it needs to strive for due diligence and good governance in the mining sector.

After an analysis of the contents of the said report and evaluation, the Province of North Kivu would like to make the following observations:

1. Global Witness conducted this investigation in the Masisi and Walikale Territories without obtaining the opinions and concerns of the official bodies and without preliminary courtesies. This circumstance clearly betrays its premediated and deliberate intention to harm the Democratic Republic of the Congo. To achieve its aim, Global Witness produced its biased report without evaluating the consequences of its allegations on the security and socio-economic balances in the Masisi and Walikale Territories, without taking into account the actual context of this minerals supply chain which is in line with national, regional and international standards of traceability and certification.
2. Global Witness, however, while acknowledging the high demand for artisan minerals from the African Great Lakes Region seems, at the same time, to accord it neither due admiration nor appreciation, so much so that it persists in conduct which would aim to destroy the "3T" mineral supply chain in the Great Lakes Region. In so doing, Global Witness devotes energy to denigrating the Armed Forces of the Democratic Republic of the Congo, the National Congolese Police and Congolese officials of State and their partners who are doing good work in managing the traceability of minerals in the region.
3. Global Witness focuses only on the COLTAN supply chain and not on that for cassiterite or wolframite, although these three products are mined concurrently from mixed deposits in the same region, under the same conditions, in the same context and are supported by the same framework of competent services of the State. How is it possible to understand that the COLTAN supply chain is tarnished with irregularities and described as a source of COLTAN laundering while the supply chains of other products from the same paragenesis are considered to be clean? This signals the partisan and biased nature of those who provided the information and those who published it.
4. Global Witness has conducted its inquiries in an inquisitorial manner and only relies on evidence which has not been discussed with all the parties involved, considering only the outdated and outgrown opinions of SMB SARL which appear in every line of this report, constituting for them irrefutable assertions. This apparent coincidence sheds doubt on the credibility and impartiality of the said report. In confirmation of this impression, we note that all the

responses of the other stakeholders in the minerals supply chains to the questions posed regularly and habitually by Global Witness by e-mail, are never taken into account by the latter, as if, apart from SMB SARL, other stakeholders in the supply chain in Masisi Territory are not qualified for mining operations.

5. Global Witness put together, on page 34 of its report, images taken in 2017 at a former farm which is now nothing but **a banana and eucalyptus plantation**, during a period before the demarcation of the two areas (PE 4731 and PE 76) and a description of the mining site of Nyagisenyi. It should be noted that Nyagisenyi is not a small dot on the map but a vast operating area with more than eight active and productive mining sites, in particular: KALINZI, MISHAVU, GASUMO, KASHAKI, GIKOMBE, NYAGISENYI I, NYAGISENYI II and GASURA.

It should be noted that, since 2016, the Committee for the Monitoring of Mining Activities in the North Kivu Province made several rulings on the issue of plausibility of production raised by SMB at the time of validation of the mining sites in the SAKIMA concession. A multi-stakeholder mission was dispatched to the location during March 2016 to understand the details of tagging operations in the two concessions. The report from this mission recommended that the two concession holders (SMB and SAKIMA) should take corrective measures in the monitoring of their chains of custody.

In this context, in September 2017, the Committee for the Monitoring of Mining Activities in the Province of North Kivu and the National Commission to Combat Mineral Fraud and Mineral Smuggling (CNLFM) brought together all the stakeholders to reflect on a new mechanism for improving control and transparency in the Masisi chain of custody, the outcome of which was the development of an improved traceability system adopted by all the Masisi stakeholders including SMB. One year later, SMB assessed that the improved system established did not meet its concerns and deemed it appropriate to take court action, unfortunately, without success. Respectful of the laws of the country, the Committee for the Monitoring of Mining Activities in the Province of North Kivu did not yield to pressure and that should have been the case for other stakeholders, including Global Witness.

6. Global Witness focusses by default and repeatedly on the mining centre of RUBAYA located in the concession covered by PE 76 with 324 mines owned by SAKIMA SA, that of SMB SARL covered by PE 4731 with 36 mines located in BIBATAMA (also known as BISUNZU) and not

RUBAYA, without taking into account the Mines Registry demarcation report provided by SAEMAPE and the Provincial Division of Mines and Geology of North Kivu.

7. Global Witness unilaterally appoints itself the sovereign arbitrator in conflicts between on the one hand two concession holders “SMB SARL and SAKIMA SA” and on the other hand between SMB SARL and other mining companies in the locality, in defiance of judgements and rulings issued by competent civil and military jurisdictions, copies of which have been brought to its attention and, unfortunately, makes no mention of this in its report.
8. Global Witness disregards the efforts of the Government of the Democratic Republic of the Congo which, since the promulgation of the Dodd-Frank law in 2010, and its implementation in 2011 (Section 1502), has made every effort to ensure that no soldier is present in a green-rated validated mine. The same applies to children and pregnant women: this means that in North Kivu, conflict minerals are no longer an issue, and that includes the laundering of the said minerals.

Nowadays, in accordance with Presidential Order No. 21/016 of 03 May 2021 proclaiming a state of siege on part of the Territory of the Democratic Republic of the Congo, soldiers are scattered across the Province to track armed groups and negative forces, and do not involve themselves in mineral operations. Nevertheless, if it is possible to report some instances of misconduct, this does not indicate bad governance of the minerals sector, still less the involvement of the army.

9. Global Witness, on the issue of BIHOLO and KAMATALE, only considers the opinion of the panel of the United Nations Group of Experts as irrefutable proof of the involvement of armed groups in the supply chain, despite the response of the Provincial Government dated 17 December 2020 to the United Nations Group of Experts; without, moreover, taking into account the reports of the rating and re-rating missions to these mining sites carried out recently with the support of partners.

Nowadays, with the emergence of the state of siege, the sites of BIHOLO and KAMATALE are operational and are the subject of regular control by the Mines Administration, SAEMAPE and other technical services, in accordance with the requirements of the OECD Guidance and the ICGLR Regional Certification Mechanism.

Twelve years after signature of the declaration of Lusaka and the compliance of the Democratic Republic of the Congo with the OECD Due Diligence Guidance, and with the provisions of the Dodd-Frank Law, section 1502 on mineral supply chains from conflict and/or high risk zones, significant advances have been registered in terms of the strengthening of supply chain monitoring and transparency, with tangible results reflected in an increase in the volume of traced and certified “3T” minerals exports; this means that the “3T minerals traceability systems in North Kivu have progressed significantly.

During the short historic period before the iTSCi due diligence programme, the Democratic Republic of the Congo was already tracing its minerals. However, further to multiple armed conflicts which cast a shadow over the East of the country, iTSCi was invited to the Democratic Republic of the Congo to support the existing traceability documentation system.

With the arrival of iTSCi, several advances were observed in minerals governance in the country. Nowadays, mines once occupied by armed groups, have been liberated from the influence of such armed groups, rated and validated “green” in accordance with the requirements of OECD and CIRGL principles, with lobbying conducted by iTSCi and several other Technical and Financial Partners of the Ministry for Mines. Several rebels then voluntarily demobilised to resume civilian life and became artisanal miners regulated by approved mining cooperatives. This has contributed significantly to the transformation from islands of instability into what are now islands of peace, where numerous socio-economic prosper activities to the satisfaction of the population.

To sum up, for the Province of North Kivu, the conclusions of Global Witness on the iTSCi due diligence programme on Masisi Territory give the impression of a desire to take us back to a former dark period of insecurity since they are not objective, still less do they come close to describing the daily reality of life in the place.

Who can be unaware of the fact that, thanks to iTSCi, the traceability of Masisi and Walikale minerals has significantly improved due to the strengthening of data collection tools as well as the tagging of minerals from mine through to point of export? Have not thousands of due diligence training courses been organised for the benefit of the participants in the interests of strengthening good governance over the minerals operations in North Kivu? Have not dozens of mining areas been made safe thanks to the expansion of the iTSCi programme in North Kivu and thanks to the adoption of the OECD principles of traceability and due diligence by the services of the State and all the stakeholders in the mining sector?

The Provincial Government of North Kivu also acknowledges that, since 2014, thanks to the iTSCI due diligence and traceability programme, significant quantities of “3T” minerals have been routed through the official market channels and at the same time it ensures that optimum conditions of certification are kept at a required level in accordance with the standards of the CIRGL Regional Certification Mechanism. It goes without saying that in this way and in several respects North Kivu is a model for the region in terms of the certification of its artisanal minerals.

The Democratic Republic of the Congo therefore regained its credentials, positioning itself favourably on the international market as a leading producer of COLTAN since 2017 through to 2021. Nowadays, the public debate between the stakeholders, the reporting of incidents and alerts and monitoring in situ are part of the good practice that we ensure that all actors involved in our various supply chains implement.

Certainly in a fragile State such as the Democratic Republic of the Congo, zero risk cannot exist: and it is common knowledge that no system of traceability and due diligence is perfect, which is why the OECD Guidance recommends proactive, progressive, participatory and reactive operations. That is why the Government of the Republic has established frameworks or platforms of multi-stakeholder collaboration, to respond to any shortcomings found in the supply chains in accordance with national, regional and international requirements on due diligence. Therefore, the analysis of risks and the adoption of corrective measures are no longer the prerogative of private enterprise but they also appear on the agenda of the meetings of the Committee for the Monitoring of Mining Activities (CSAM) in the Province, of the Local Monitoring Committees (CLS) and the Local Monitoring Sub-Committees (S/CLS).

To call into question all of these efforts in a report drawn up after an inquiry undertaken on the basis of a dubious methodology, in legal and scientific terms, would seem to derive from a manifest desire to deprive access for COLTAN from the Democratic Republic of the Congo to the international market at a time when the price of this metal is experiencing an unprecedented upturn. This attitude could, in one way or another, plunge back into poverty thousands of Congolese who benefit directly or indirectly from artisanal mining. It is as if Global Witness does not relish the idea of the wellbeing of the Congolese people.

With all these concerted efforts, the Province of North Kivu and the Government of the Democratic Republic of the Congo will not tolerate in any way its supply chains suffering the consequences of unfair competition between the due diligence and traceability programmes of

RCS GLOBAL and ITSCI on the one hand and the struggle for the control of strategic minerals by multinationals on the other hand.

The commercial conflict between SAKIMA SA and SMB SARL, competition between multinationals for the control of Congolese minerals as well as the **competition in which the BSP and iTSCi systems** are engaged should not be the main focus of Global Witness in order to destabilise the supply chains of “3T” minerals from the East of the Democratic Republic of the Congo and discredit the Armed Forces of the Republic as well as the services of the State who are engaged in restoring the Authority of the State and in the relentless fight against mineral fraud and trafficking. The Province of North Kivu should not be made a scapegoat for the conflict between various private stakeholders involved in the supply of “3T” minerals in the region.

Goma, 01 JUNE 2022

=: NOIMA KONGBA Constant: =
Lieutenant General

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Office of the Provincial Governor]