



Telephone
+44 (0)1727 875 544

Email
itsci@internationaltin.org

Internet
<http://www.internationaltin.org>
and
<http://www.itsci.org>

International Tin Association Ltd
Secretariat ITSCI Programme
Unit 3, Curo Park, Frogmore,
St. Albans, Herts AL2 2DD, UK

Global Witness
Alex Kopp
Green House
244-254 Cambridge Heath Road
London E2 9DA
akopp@globalwitness.org

08th October 2024

Response to Global Witness letter of 30th September 2024

Dear Alex,

Thank you for your letter of 30th September. We understand from your letter that you are currently preparing a publication about the implementation of the EU Regulation 2017/821 (hereafter, ‘EU Regulation’) which you refer to as the ‘conflict minerals regulation’. We welcome the opportunity to respond to your questions.

As part of our commitment to enhance transparency and to promote constructive dialogue between stakeholders to improve due diligence of companies sourcing from Conflict-Affected and High-Risk Areas (CAHRA) and to advance the responsible mineral supply chains in CAHRA, we have chosen to [publish our response](#).

We note that the EU Regulation explains supply chain due diligence as the “obligation of Union importers (...) in relation to their management systems, risk management, independent third-party audits and disclosure of information with a view to identifying and addressing actual and potential risks linked to conflict-affected and high-risk areas to prevent or mitigate adverse impacts associated with their sourcing activities”¹.

We regret that Global Witness continues to use the term ‘conflict minerals’ which is widely considered to oversimplify complex multi-stakeholder situations and do harm by generically stigmatising entire regions. We recommend use of the term responsible sourcing as adopted by experts in the field.

Both the EU Regulation and the ITSCI Programme refer to, and support the implementation of, on-going company due diligence as laid out in the OECD Due Diligence Guidance. In this regard, the OECD Guidance explains that “companies should take reasonable steps and make good faith efforts to conduct due diligence”². The ITSCI Programme facilitates the activities of companies regarding these recommendations, and this role was underscored in the second independent Alignment Assessment which ITSCI completed last year, and which concluded that [ITSCI is ‘Fully Aligned’ with the OECD Guidance](#).

We note that your letter and queries reuse and recycle older and other publications, including your own 2022 report about ITSCI as well as reports from the UN Group of Experts. ITSCI has already provided [detailed responses to your 2022 report](#) as well as additional statements on reports from the UN Group of Experts, all published on the [ITSCI website](#). We regret that those previous responses and statements do not seem to be

¹ EU Regulation 2017/821, Article 2 (d).

² OECD (2016), OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas: Third Edition, OECD Publishing, Paris, page 14.

taken into account by Global Witness. It remains both surprising and disappointing that Global Witness does not consider our previous detailed response informative. We further regret that Global Witness continue to use over-simplifying statements about the ITSCI Programme without apparent consideration of these past responses and detailed explanations about our Programme, scope, mandate, role and responsibilities.

We acknowledge that there are, and will always be, challenges when working in CAHRA and facing complex issues related to corruption, human right abuses, security, and mineral fraud which involve a wide range of stakeholders and stakeholder groups, each with different mandates, roles and responsibilities. We also acknowledge that there are ongoing opportunities for improvements which we are continually committed to work on, in alignment with the OECD Due Diligence Guidance. As mentioned before, we welcome Global Witness' concrete suggestions on what additional practical on-the-ground actions can be taken to improve due diligence and enhance the responsibility of all parties engaged in the mining sector.

We emphasise that understanding local context is of critical importance to adequately evaluate and report risks. Taking a wider perspective, we are proud of the tremendous efforts made, and the progress achieved in the last 15 years in the Great Lakes Region, which for instance include the growing number of local multi-stakeholder committees monitoring activities, the implementation of improved traceability control mechanisms, and the increased accountability of local stakeholders discussing and resolving incidents through practical and successful actions, to name just a few. Undoubtedly, this should not and cannot deviate from addressing current risks. But the past 15 years provide critical lessons learnt, including by contributing to evidencing underlying causes of risks, while demonstrating that large-scale improvements are possible, achieved through meaningful, constructive and ongoing engagement with all involved parties from government, civil society and the industry. This approach remains at the core of the ITSCI Programme.

Your queries further allude to events post-2022 but unfortunately so far without sharing any details. As communicated previously to Global Witness, we welcome the opportunity for constructive and positive engagement with any stakeholders including Global Witness. In our last letter to Global Witness (see Annex), we had suggested an in-person dialogue with Global Witness to discuss questions related to responsible sourcing. This offer remains.

ITSCI remains eager to receive whistle-blower reports of risks related to OECD Annex II, including any evidence that Global Witness wishes to provide for follow-up. Reports can be submitted via any local contacts or our dedicated email address (itsci.whistleblowing@internationaltin.org) or other means explained in our whistleblowing policy.

We are providing below responses to each of your questions.

Best regards,



Mickaël Daudin
ITSCI Programme Manager
Secretariat of the ITSCI Programme

Global Witness statement no.2: Minerals from the Lukoma mine, including wolframite, were introduced into ITSCI supply chains in Nzibira in 2023 and imported to Europe.

For a better reading and understanding of the local context, we have responded to the statement no.2 first, followed by statement no.1.

We find it surprising that Global Witness continues to disproportionately and selectively focus on one site only, Lukoma, as origin of alleged contamination of ITSCI supply chains. We previously explained that Global Witness (over)reliance on government validation process for analysis of potential and actual production, taking a particular view on what is a ‘validated’ site, leads to questionable analysis and comparisons.

“GW allege Nzibira sector is ‘contaminated’ because of ‘a large discrepancy between the volume of minerals being tagged [at the local centre] and the volume of minerals produced in the ‘green-rated’ mines in Nzibira sector which GW’s source claims are unproductive. In December 2021 ITSCI explained to GW that mines around Nzibira sector do produce significant tonnages of minerals and those tonnages are recorded by DRC state services from mines which have previously been validated as green (2014 and 2017), as well as mines which have not been, to our knowledge, listed in any validation decree so far.¹⁹ Note that **we record ~25 mines in the Nzibira sector, most of which were active in 2020 and continue to be active today. The last validation mission to the sites took place more than three years ago.** Some mines which were active in the past are indeed not currently active.”³

To understand the local context, it is critical to highlight that Lukoma mine site is not the only mine located in the Nindja chiefdom. Our information showed that there were, aside from non-ITSCI Lukoma mine, also other known non-ITSCI mines in the area. We acknowledged risks of minerals produced at those mines entering the supply chain, which we have transparently recorded as part of our incident mechanism, and our ongoing monitoring and follow-up with local stakeholders, including local authorities and state security forces. This transparency and engagement in turn resulted in **important improvements both in terms of security, mine formalisation, government controls and due diligence overall, achieved in the past months and years in the Nindja chiefdom.**

Global Witness statements suggest that Global Witness has new information about the (non-ITSCI) Lukoma mine or the Nindja area more widely. As mentioned before, we welcome evidence or information on risks about the ITSCI supply chain and invite you to send any information directly or via our whistleblowing mechanism. ITSCI whistleblowing procedure and contacts are available online www.itsci.org/contact/. The confidential ITSCI whistleblowing address is at itsci.whistleblowing@internationatin.org.

We do not have any information in regard to Global Witness statement about wolframite.

Global Witness statement no.1: An armed group continued to profit from 3T minerals produced in the Lukoma mine in Nindja collectivit , South Kivu, after our reporting from 2022.

First of all, we would like to highlight that according to available information, **non-state armed groups are no longer involved in mining activities at the Lukoma mine.** We explain in our response below some key actions taken by local stakeholders encouraged and supported by ITSCI and which enabled achievement of this result.

In our [response to the 2022 Global Witness report](#), ITSCI explained how the security situation was rapidly evolving, and remained fluid for a time although improved security was progressively established.

The presence of, and ongoing monitoring by, ITSCI and state services at several mines (other than Lukoma mine) in Nindja chiefdom since 2023 led to general security improvements in that chiefdom, including the set-up of a local multi-stakeholder committee (CLS) with support from ITSCI, and helped to address the ongoing security risks related to the presence of Raia Mutomboki (RM) at and in the vicinity of non-ITSCI Lukoma mine.

³ ITSCI Response to Global Witness ‘The ITSCI Laundromat’, June 2022, page 18.

- During the first quarter of 2024, the Ninja CLS met with the RM leader and raised his awareness on the issue of armed groups' interference in mining activities and on impact for local communities. **As a result, the RM leader accepted to leave the area, including the Lukoma mine and its vicinity, and announced his intention to voluntarily demobilise.**
- A delegation from the Ninja CLS also visited the Lukoma mine in April 2024 to raise awareness of RM members about risk management in mineral supply chains.
- These actions were very successful and resulted in the RM leader himself taking actions by stopping RM fighters from entering mines, including Lukoma mine, and recovering their weapons.
- Currently, there are no non-state armed groups reportedly involved in mining activities at the Lukoma mine.

The above-listed points are a great example of successful local multi-stakeholder engagement and resolution of Annex II risks in mining areas, following recommendations from the OECD Guidance. The process of full demobilisation, disarmament, and reintegration is reportedly ongoing. ITSCI continues to closely follow-up with all responsible parties including the government and its partners to take all necessary actions to complete this process.

Global Witness statement no.3: *Various organisations have in recent years reported about ITSCI supply chain contamination with conflict minerals in Nzibira sector, e.g. the UN Group of Experts⁴ Global Witness⁵ and Max Impact.⁶*

The reference to 'recent years' in the above statement is misleading. Global Witness quotes its own report from 2022, which in turn already sourced the other reports listed, from the UN Group of Experts (GOE) or from Max Impact. These sources are from 2016-2018 and therefore already dated at the time of the previous Global Witness report in 2022. There does not seem to be any new information from Global Witness on which we could comment.

In our response to the 2022 Global Witness report, we explained why a large number of these older allegations were not supported by substantiated facts or evidence. We provide below details on recent public reporting ITSCI made to report risks on the ground, the existence of which we have acknowledged in the past and continue to do so today.

As explained in our October 2022 letter (see annex), we do not believe it is useful to continue discussing complex and nuanced interpretations of events and requirements on the ground via exchange of letters since that is not a productive or constructive way forward. We instead support stakeholder dialogue and engagement, as recommended in the OECD Guidance.

Global Witness statement no.4: *There is extensive reporting about failings of the ITSCI scheme in North and South Kivu by Global Witness⁷, MONUSCO and the UN Group of Experts.⁸*

Similarly to Global Witness statement no. 3, Global Witness again quotes its own 2022 report. We have explained above why we do not consider useful to repeat our response to that report but remain open to in-person dialogue.

In the past years, ITSCI has continued to engage with other external stakeholders through direct dialogue and constructive exchange of views and information. We have directly provided the GOE with extensive

⁴ UN Groupe of Experts (2018): Midterm report of the group of experts on the Democratic Republic of the Congo, S/2018/1133, paragraphs 86– 87.

⁵ Global Witness (2022): The ITSCI laundromat. How a due diligence scheme appears to launder conflict minerals, pp.16-22.

⁶ Max Impact (2016): Evaluation de l'implémentation du système de traçabilité dans la province du Sud-Kivu, pp.8–13.

⁷ Global Witness (2022): The ITSCI laundromat. How a due diligence scheme appears to launder conflict minerals; Global Witness (2022): ITSCI is unwilling to address failures of its due diligence scheme - companies must now pressure it to take strong action.

⁸ UN Groupe of Experts (2023): Midterm report of the Group of Experts on the Democratic Republic of the Congo, p.15.

comments on a wide range of topics related to mineral supply chains in the Great Lakes Region of relevance to the GOE's mandate. We acknowledge, respond to, and follow-up from, new reports from the UN Group of Experts. For instance, ITSCI published a statement in [January](#) and [July 2024](#) respectively about both the 2023 Midterm report and the 2023 Final report from the UN GOE. ITSCI has also responded to reporting from MONUSCO.

Allegations of 'failings' of the ITSCI Programme which concerned mineral fraud in North Kivu Province and alleged shortcoming of the ITSCI Programme were also subject to extensive checks by an expert independent assessor. These checks went beyond the normal Alignment Assessment (AA), a process that is defined by the (publicly available) OECD methodology, to which Global Witness was provided the opportunity to input. These supplementary checks included additional documentation review going beyond the Alignment Assessment methodology, stakeholder interviews, and a detailed presentation including analysis by ITSCI of individual mine sites in Masisi territory, North Kivu Province. After this additional work, ITSCI was confirmed to be 'Fully Aligned' with the OECD Guidance. The [public AA report](#) provides details of this assessment, in particular Box 1 (pages 22-23) and Box 2 (pages 29-30) of the report.

ITSCI also continues to support and provide guidance and tools to local governments who have the mandate to control their mining sector, including mineral trade as well as illegal activity related to mining activities.

In 2022-2024, ITSCI also provided regular key updates on the evolution of the security situation in North Kivu, including risks, disengagement and impacts on mineral supply chain as the situation evolved:

- July 2022: [Update](#) on presence of M23 in North Kivu Province
- March 2023: [Suspension of ITSCI activities](#) following the presence of M23 in Rubaya town
- May 2023: [ITSCI tagging resumed](#) in Masisi territory
- December 2023: [Suspension](#) of the ITSCI Programme
- April 2024: [ITSCI resumed](#) in Masisi territory following positive security developments
- Since May 2024: [Suspension of activities](#) following presence of M23 in Rubaya town. This suspension remains in place to date.

The evolution of risks in CAHRA is expected and requires ongoing due diligence and can seem more challenging depending on individual situations. However, this does not alter the implementation of the same underlying process of identifying and responding to risks, depending on the nature and severity of risks, i.e. from risk mitigation to immediate disengagement, as recommended by the OECD Guidance. ITSCI has continued to follow and support that internationally agreed multi-stakeholder approach.

Global Witness statement no.5: Conflict minerals continue to be laundered into the ITSCI scheme in Nzibira.

This statement is general and undifferentiated, without any evidence provided. Please refer to our response to GW statement 1 and 2 above.

Global Witness statement no.6: The ITSCI scheme is unreliable, and there remain doubts about the use of industry schemes for due diligence.

The first part of the statement, 'the ITSCI scheme is unreliable', is made without any evidence or substantiated facts and in contradiction to the ITSCI AA results. The responses provided above demonstrate that ITSCI is a reliable and credible programme, by continuing to record and report risks, including those highlighted in reports from the UN Group of Experts and by achieving risk identification and stakeholder engagement for progressive improvement. We have further shown in our response that our pro-active and ongoing engagement on the ground to address risks leads to successful resolution of risks, while also resulting in the removal of non-state armed groups from 3T mine sites.

We regret Global Witness continued attempt to undermine and discredit our work and that of our local partners and stakeholders from governments and civil society organisations, including questioning the general approach of due diligence. We will refrain from any further comment in that regard, **while again calling Global Witness for constructive engagement and dialogue**. If Global Witness shares ITSCI's goal of enhancing responsible sourcing of minerals and supports transparent risk reporting to support companies' due diligence responsibilities, we believe such engagement will benefit both organisations' vision.

Regarding the use of industry schemes for due diligence, we consider joint industry work to be essential for efficiency and common understanding, but we also share concerns of risks of over-reliance on such schemes.

We would like to emphasise that we have agreed in the past with Global Witness recommendations and would like to re-share for your convenience key comments from our [2022 response to the Global Witness report](#) (see pages 13, 73-74):

- “GW also recommends that companies reduce reliance on all industry schemes, including smelter audits. ITSCI tends to agree with, and has previously advocated for, many of the recommendations put forward by GW for other parties. ITSCI believes that all companies should understand and contribute to schemes that they elect to use as OECD due diligence places final responsibility firmly on companies.”
- **“ITSCI has put forward the same view as GW presents i.e. that schemes should not replace the responsibility of companies** and that companies must themselves fully understand the purpose, activities and role of any scheme which they elect to make use of.”
- “ITSCI welcomes implementation of the EU Mineral Regulation and retains concerns regarding disconnects between due diligence obligations of upstream and downstream. We **would welcome public guidance on how companies are implementing the regulation and how member states are applying enforcement** measures.”
- **“ITSCI welcomes further clarity on implementation, expectations, government responsibility for, and enforcement of the EU Mineral Regulation.”**
- “ITSCI would be happy to **support effective mechanisms which would encourage downstream companies to understand, engage with and value upstream** supply chains.”
- **“ITSCI supports engagement of downstream companies with upstream** either via participation in upstream schemes or by any other meaningful approach. ITSCI is happy to provide extensive information to participating members.”

END

About ITSCI

ITSCI supports companies with their due diligence responsibilities in full alignment with the OECD Guidance recommendations by making available unique and credible first-hand information, supporting businesses to make appropriate and effective decisions. Due diligence is a dynamic, ongoing process, which improves over time. Our procedures are clear about the challenges involved in sourcing minerals from artisanal and small-scale miners (ASM) in the African Great Lakes region. In monthly reports that all full ITSCI members receive, there is detailed commentary on activities and updates on production, security and political developments or other issues relevant to the ASM supply chains under the scope of the programme. We strongly believe that ongoing meaningful engagement in CAHRA is vital to avoid de-risking which can negatively impact local communities.



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+44 (0)1727 875 544

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and
<http://www.itsci.org>

International Tin Association Ltd
Secretariat ITSCI Programme
Unit 3, Curo Park, Frogmore,
St. Albans, Herts AL2 2DD, UK

11th October 2022

Dear Alex,

Thank you for your letter sent on 5th October 2022. First, I would like to inform you that I have replaced Roper Cleland as ITSCI Programme Manager in September 2022.

While we appreciate you contacting ITSCI for input, our views are already provided in our extensive and detailed response to your report 'The ITSCI Laundromat'. We do not believe it is useful to continue discussing complex and nuanced interpretations of events and requirements on the ground via exchange of letters since that is not a productive or constructive way forward.

We confirmed in our response how we appreciated Global Witness' constructive engagement with the ITSCI programme previously from December 2011 to April 2018, when Global Witness was a member of the ITSCI Advisory Panel. We believe that such ongoing and direct engagement would be the right way forward if you share our aim to advance responsible mineral supply chains in CAHRAs. It is indeed worth highlighting again that ITSCI agreed in our response with the majority of Global Witness recommendations.

I understand from our records that following a suggestion for positive engagement through discussion you confirmed in an email of 24th December 2021 that "Global Witness continues to be open for dialogue with ITSCI about questions related to responsible sourcing." We would welcome such in-person dialogue with Global Witness and will refrain from providing written comments on topics which have already been addressed, and hence from engaging in a further unhelpful exchange which is unlikely to result in constructive progress.

The questions in your request relate in general to legal basis for mineral production and trading in the DRC. Note that ITSCI works in collaboration with the DRC government and all relevant state services including SAEMAPE, Mine Division, and CEEC to support traceability and due diligence of minerals from mine to export and enhance good governance of the mining sector.

We recommend you address any questions related to any legal aspect to the DRC government directly. For questions on mine site validation, you may also wish to contact ICGLR directly.

You mention in your letter that you will confirm your key allegations. As always, we welcome evidence or information on risks about the ITSCI supply chain and invite you to send any information directly or via our whistleblowing mechanism. ITSCI whistleblowing procedure and contacts are available online <https://www.itsci.org/contact/>. The confidential ITSCI whistleblowing address is at itsci.whistleblowing@internationaltin.org

ITSCI is proud of the progress achieved by all stakeholders on the ground, reducing likely widespread unjustified disengagement from the ASM sector in the Great Lakes Region, working today with more than 90,000 miners. We would like to reiterate again our suggestion to engage in a constructive dialogue aiming

to increase those impacts and more generally advance responsible mining and sourcing in the Great Lakes Region.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Mickaël Daudin". The signature is written in a cursive style with a stylized initial "M".

Mickaël Daudin
ITSCI Programme Manager
Secretariat of the ITSCI Programme