

ITSCI WHISTLEBLOWING POLICY & PROCEDURE

1 Introduction

This document describes ITSCI's policy and procedure with regards to the Programme's whistleblowing mechanism. The OECD Guidance describes in Step 1.E. a recommendation to 'Establish a company level grievance mechanism' that will allow any interested party (affected persons or whistle-blowers) to voice concerns regarding the circumstances of mineral extraction, trade, handling and export in a conflict-affected and high-risk area.¹ The Guidance also recognizes that this may be achieved through collaborative arrangements with other companies or organisations, or by facilitating recourse to an external body.² The purpose of this ITSCI whistleblowing procedure is to provide a grievance mechanism as a collaborative arrangement for ITSCI member companies, which allows stakeholders to voice concerns, and enables those companies to be made aware of verified risks relevant to their supply chain.

2 Objectives of the policy and procedure

The objective of the policy is to set out ITSCI's position on whistleblowing and provide assurance and encouragement to those wishing to voice relevant concerns. The objective of the procedure is to describe different methods to report possible wrongdoing without the fear of reprisal, discrimination or disadvantage to the person disclosing, irrespective of whether the disclosure results in action. This document is expected to be disseminated to ITSCI member companies and Programme staff, local and national Governments and through local Programme stakeholder committees as well as being available on the internet. It is expected to be made available in a simplified form in local languages in mine areas covered by the Programme and/or via verbal dissemination to overcome literacy limitations.

¹ OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas: Second Edition, OECD Publishing

² Note regarding ombudsman: While the OECD Guidance Step 1.E. uses the terminology 'ombudsman' in relation to an external body, this differs from the use of the term within the ITSCI Programme in which the ombudsman means 'the person and/or organisation appointed to independently deal with appeals and/or other matters of dispute between the Organisations within the Operational System of the Programme and its Members, specifically relating to disputes over membership eligibility or expulsion of Full Members'.

3 Whistleblowing Policy

Key References and Expectations

The ITSCI Programme expects member companies, contractors, representatives and other partners of the Programme such as local Governments to act in accordance with several key references (as relevant to their situation and role, and as relevant to the minerals trade);

- a. Company supply chain policy in accordance with Annex II of the OECD Guidance, as well as recommendations contained in the Supplement on Tin, Tantalum and Tungsten³;
- b. The ITSCI Programme processes and requirements;
- c. National and local laws as relevant, including governance of company operations and financing and payment of taxes in relation to the mineral trade;
- d. International guidance or laws such as international human rights and humanitarian law.

Noting that child labour is endemic in many countries and resolution of this issue requires a concerted effort of many stakeholders. Disengagement by companies observing the worst forms of child labour in their supply chain as recommended by the OECD Annex II should be considered with regard to the possibility that disengagement may create more harm.⁴ Child labour in mineral supply chains should not be directly or tacitly condoned, nor should it be ignored, rather ITSCI member companies are primarily expected to work with other stakeholders and initiatives to recognise and take progressive improvement action with regard to this risk if disengagement does not appear an appropriate action.

Noting that while facilitation payments are a form of bribery, and should be eliminated, these practices are endemic in many countries (especially where public sector agents are poorly or erratically paid, or are unpaid) and it is recognized by the Business Principles for Countering Bribery tailored to small and medium sized enterprises (SME) that zero tolerance of facilitation payments can only be achieved over time.⁵ The Programme follows similar expectations that companies should work towards the elimination of facilitation payments, and ITSCI members are asked to avoid offering, giving or demanding bribes and record any breach of this expectation in a company register available for inspection.

Noting that international, national and local laws supersede the Programme's operation and expectations if in contradiction.

Scope of Policy

This policy applies to all operators of, and participants in, the ITSCI Programme, which may include Programme and Government field staff as well as auditors and other persons performing a defined role.

³ Including the Voluntary Principles on Security & Human Rights; <http://www.voluntaryprinciples.org>

⁴ ILO Convention No. 182 on the Worst Forms of Child Labour (1999)

⁵ http://www.transparency.org/whatwedo/tools/business_principles_for_countering_bribery_sme_edition

The policy applies to employees, contractors and any other representatives of the operators and participants.

'Wrongdoings' are related to work within the minerals industry, and include;

- i. Serious abuses associated with the extraction, trade or transport of minerals; torture, cruel, inhuman and degrading treatment, forced or compulsory labour, the worst forms of child labour, gross human rights violations including widespread sexual violence, war crimes and serious violation of humanitarian law⁶;
- ii. Direct or indirect support to non-state armed groups;
- iii. Inappropriate public or private security practices;
- iv. Bribery including for the fraudulent misrepresentation of the origin of minerals or misrepresentation of taxes paid;
- v. Money laundering;
- vi. Non-payment of taxes, fees or royalties due to governments in relation to extraction, trade or transport of minerals
- vii. Intentional acts in contravention to ITSCI processes and requirements
- viii. Intended personal or financial gain from abuse and exploitation of a person's position within the Programme
- ix. Unlawful acts whether civil or criminal in relation to extraction, trade or transport of minerals

Support of whistleblowers

ITSCI is committed to supporting whistleblowers who disclose evidence of wrongdoing relating to the mineral supply chain covered by the Programme and relating to the key references and scope of the policy as described above.

ITSCI is committed to ensure that appropriate and secure channels are available and accessible to whistleblowers to communicate their information and to ensure that the identity of whistleblowers are protected during and after the process. The whistleblower must be raising concerns in good faith, with reasonable grounds, and without the hope of personal gain. ITSCI will not under any circumstances make any payment or provide any favour in return for information provided. Any request for payment or favour by a whistleblower will compromise the credibility of a disclosure.

Victimisation or harassment of whistleblowers by member companies and staff will be recorded as an incident and employment status (when concerns are raised by staff members) will not be affected by raising a concern.

⁶ ILO Convention No. 182 on the Worst Forms of Child Labour (1999) though taking into account the relevant note on child labour in 'key expectations' above, and the need for companies to avoid harm and engage in improvement activities.

4 Whistleblowing Procedure

Making the Disclosure

The disclosure can be made directly to any person connected with the Programme and with whom the whistleblower may or may not already be familiar, this includes:

- The Comité Local de Suivi or the Comité Provincial de Pilotage
- The local ITSCI field staff
- The area level ITSCI field manager
- The regional ITSCI manager
- The ITSCI incident reporting officer at reporting@itsci.org
- The ITSCI Secretariat at secretariat@itsci.org
- The ITSCI Governance Committee members
- The ITSCI Independent Evaluators
- The DRC whistleblowing hotline: +243 820990991
- The whistleblowing email address: itsci.whistleblowing@itsci.org

The whistleblower may select any recipient for the disclosure at any level of seniority but must clearly indicate to the recipient that the disclosure must be managed in accordance with ITSCI's Whistleblowing Policy and Procedure. Both male and female recipients will be available to receive disclosures.

The whistleblower may also indicate if for some reason they do not wish the disclosure to be managed by the ITSCI incident reporting officer according to the described process.

The disclosure can be made verbally, in writing, or via electronic communication. A post box for written disclosures may be made available at various local sites if relevant. A SMS/text reporting facility may also be made available to which information may be sent in any language.

Guidance for useful information to include in a disclosure

Whistleblowers are encouraged to provide as much detail as possible in their disclosure in order to allow an effective evaluation and follow up. This may include specific names, dates, locations, mineral types, tag numbers and similar identifying information as well as documentation or photographs.

Whistleblowers are encouraged to provide their contact information to enable the follow up investigator to clarify any information or evidence provided, however this is not a requirement.

Intended use of ITSCI Whistleblowing Procedure

Whistleblowers should not use the mechanism for making false allegations against competitors or others that could affect their business. Disclosures which are found to have ulterior motives such as related to financial gain, competition, or are false and malicious statements deliberately injurious to a person or body's reputation will be dismissed. Action may be considered against member companies and staff who deliberately raises a false concern and deliberately abuses the ITSCI Whistleblowing Policy or Procedure.

Protection of whistleblowers

Whistleblowers who disclose information in good faith will be protected irrespective of the quality of the evidence provided or the outcome of any review or subsequent investigation undertaken by ITSCI.

Complete anonymity may be maintained by the discloser by using the SMS or post box facilities provided. Protection will also be afforded for verbal or other similar disclosures made directly to any person connected with the Programme (the recipient). In such cases, the source of any disclosure stated to be made in relation to this policy and procedure will not be revealed to any other person connected with the Programme, but will be passed into the ITSCI incident reporting procedure as from an anonymous source. Any follow up required with the whistleblower who has provided contact information will be passed back from the incident reporting procedure to the whistleblower via the original recipient of that information who will remain the only person with knowledge of the whistleblowers identity.

The identity of the whistleblower if shown on any submitted documents will be removed by the recipient. An exception on the above will be necessary if the source is required to be disclosed as part of a legal process under the relevant laws. In these cases, effort will be made to protect the source from retaliation in collaboration with the relevant authorities, and in conformity with national and international procedures that may apply.

All individuals qualifying as a recipient will be required to sign a confidentiality agreement confirming their understanding of, and willingness to participate in, the whistleblowing process including their obligations to respect anonymity and confidentiality.

Evaluation and management of a disclosure

The information disclosed shall be passed directly from the recipient to the ITSCI incident reporting officer and will then be evaluated and managed according to the normal incident process noting and observing all requirements of anonymity.

If the whistleblower has indicated that they do not wish the disclosure to be managed by the ITSCI incident reporting officer the information shall be passed directly to the Secretariat for evaluation.

Depending on the evidence provided and the risk, it will be determined if immediate action is required. An initial evaluation of the disclosure will be started promptly and certainly within 1 month of the ITSCI incident reporting officer or Secretariat receiving the disclosure. However, a disclosure may result in a substantial investigation process where timeframes for completion will vary and cannot be specified. Each individual case is assessed on its own merits and action agreed as appropriate.

Where a disclosure provides evidence of illegality, the information will be passed to the appropriate authorities.

Documentation and communications relating to the disclosure will be maintained in the record management system of ITSCI incidents unless additional protection of information is recommended by the incident reporting officer or Secretariat.

Action following a verified risk highlighted by a disclosure

The type of action that may result following evaluation and following verification that the information in a disclosure is valid and substantiated, cannot be predetermined. However, as far as possible action will remain in line with the incident reporting and management process, the expectations in the ITSCI membership agreement and in line with the recommendations of the OECD Guidance.

Subsequent action could potentially involve the suspension of membership for an ITSCI company or suspension of employment for a staff member, a review or change in ITSCI's procedures, increased monitoring and evaluating of a company, Programme or Government staff, and/or a recommendation for a criminal investigation by the authorities with a mandate to do so.

If the whistleblower has provided contact details, they will be informed of the outcome of the evaluation and the actions taken.

The incident reports originating from the whistleblowing process will be summarized and reported in line with the normal ITSCI incident reporting processes.

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