

The ITSCI Organisation

Whistleblowing Policy and Procedure of the ITSCI Programme

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I. Introduction

This document describes the policy and procedure of the whistleblowing mechanism of the ITSCI Programme (the “Programme”). 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 OECD Guidance also recognises 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 mechanism is to provide a grievance system through which any individual, organisation, or stakeholder can report concerns, incidents, or allegations relating to the supply chain. It also serves to ensure that Programme Participants are made aware of verified risks relevant to their supply chains and can take appropriate due diligence action.

II. Objectives of the policy and procedure

The objective of the policy is to set out the Programme’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 Programme Participants 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.

III. Whistleblowing Policy

1) Key References and Expectations

The Organisation expects Programme Participants, 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,

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 Programme Participants, specifically relating to disputes over participation eligibility or expulsion of Full Participants.’

- 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 Programme Participants 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 recognised 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 Programme Participants 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.

2) Scope of Policy

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

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,

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 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

The Organisation may receive disclosures concerning broader industry issues, matters occurring outside Programme-covered supply chains or unrelated to Programme activities, or other concerns beyond its mandate. While such information may be recorded and reviewed, the Organisation may determine that the matter falls outside the Programme's scope and therefore cannot be investigated, verified, or addressed through ITSCI processes. Where considered appropriate and legally permissible, the discloser may be directed to another organisation, authority, grievance mechanism, or competent body better placed to consider the matter.

3) Support of whistleblowers

The Organisation 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.

The Organisation 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 is 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. The Organisation 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.

⁶ LO 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.

Victimisation or harassment of whistleblowers by Participating 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.

IV. Whistleblowing Procedure

1) 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* (Local Monitoring Committee, CLS), the *Comité Provincial de Pilotage* or *Comité Provincial de Suivi* (Provincial Monitoring Committee, CPP or CPS)
- The local ITSCI field staff
- The ITSCI Provincial Coordinator or the ITSCI Country Director
- The ITSCI incident reporting officer at reporting@itsci.org
- The ITSCI Secretariat at secretariat@itsci.org
- 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 the Programme's Whistleblowing Policy and Procedure.

The whistleblower may also indicate that they do not wish the disclosure to be managed by a particular person or role listed above.

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. An SMS/text reporting facility may also be made available to which information may be sent in any language.

2) 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.

3) 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 Programme Participants and staff who deliberately raise a false concern and deliberately abuse the ITSCI Whistleblowing Policy or Procedure.

4) 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 the Organisation.

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 whistleblower's 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, efforts 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.

5) 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 ITSCI 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 appropriate action is determined accordingly.

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.

6) 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 Programme agreement and in line with the recommendations of the OECD Guidance.

Subsequent action could potentially involve the suspension of a company from Participation in the Programme 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 may be informed of the outcome of the evaluation and the actions taken where appropriate. To protect confidentiality, personal data and the rights of other parties, the Organisation may be unable to disclose detailed findings, mitigation measures or other specific actions and outcomes.

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