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ITSCI statement on the 2023 Midterm report of the Group of Experts on the DRC

Note: This statement only covers the content of the 2023 Midterm report of the Group of Experts

On 30th December 2023, the UN Group of Experts (GoE) published its 2023 midterm report on the DRC (S/2023/990), which includes a section on 3T minerals from North Kivu Province.

In general, ITSCI recognises that there have been, and remain, ongoing risks regarding fraud and presence of both non-state and state armed groups in the area. These risks are regularly reported through ITSCI's OECD-aligned systems, with examples of reports provided by ITSCI to companies, government and civil society representatives also shared with the GoE in advance of their report (see section 'General risks' below). This included risks of minerals from the non-ITSCI concession PE 4731 entering the ITSCI mineral supply chain.

ITSCI welcomes and supports the GoE recommendations for the DRC government to “investigate and prosecute individuals supporting armed groups involved in illegal mining” and “work with transit and destination countries of minerals originating from Rubaya”¹.

Background context

GoE reports have word count limitations, and we take this opportunity to provide some supplementary information and clarifications;

- The security situation in Masisi territory was very dynamic in 2023 due to activities of non-state armed group M23. However, M23 were not present across, or in control of, the whole territory. The situation in each mining area significantly varies.
- The negative security situation led to suspension of government and ITSCI activities in Masisi territory, North Kivu first, between [March](#) and [May](#) 2023, and second [from December 2023](#).
- The GoE discusses two mining concessions PE 4731 and PE 76 as shown in Annex 40. ITSCI has not supported activities at SMB PE 4731 since December 2018. SMB are understood to have contracted RCS/Better Mining services between January 2019 and February 2023.
- While ITSCI continued to work with local authorities from March 2023 until resumption, including at ITSCI monitored PE 76, the government's action against SMB and absence of traceability provider and state mining services led to gaps in formal controls on non-ITSCI PE 4731.
- The 'collapse' of due diligence highlighted by the GoE seems to refer to the lack of controls on PE 4731 only, not to ITSCI processes and systems, inc. ongoing monitoring and reporting.

General risks

The GoE explains that given the nature of the conflict in DRC, few documents provide definitive proof of grave human rights abuses and the illegal exploitation of natural resources and their reliance on eyewitness testimony. ITSCI also makes use of similar verbal sources, supplemented by first-hand information collected

¹ See GoE midterm report, para 103.d) and e), page 22.

by on-the-ground teams. Our teams work in constant communication with all local stakeholders to facilitate risk mitigation planning and follow-up.

ITSCI shared information with the GoE prior to the publication of the midterm report which aligned with the final report, for example;

- The security situation saw the resurgence of several self-defence youth and other non-state armed groups commonly known as ‘Wazalendo’ or ‘Wazalendu’ (‘patriots’ in Swahili) which responded to the DRC President’s ‘patriotic call’ to local youths to mobilise against M23. Wazalendo have been seen fighting alongside FARDC across the Masisi territory. As noted by GoE, the community in Rubaya welcomes the presence of Wazalendo.
- Multiple cases of checkpoints in villages or along mineral transport routes set-up by state security forces, inc. in association with Wazalendo armed groups were reported throughout 2023 in Masisi territory, resulting in reported risks of illegal taxation at these checkpoints, including on mineral transports. Many of these checkpoints are characterised by their very changing nature, some being dismantled or moved away to other routes on an ad-hoc basis.
- Presence and control of mining activities by non-state armed group PARECO on non-ITSCI concession PE 4731, near Rubaya town.
- The abovementioned situation at PE 4731 created additional risks to mineral supply chains in neighbouring areas, including other provinces of the DRC such as South Kivu, and Rwanda.

Risk mitigation

The challenges experienced in 2023 led to significant and successful efforts by local stakeholders on risk mitigation according to due diligence expectations in CAHRA. ITSCI remains committed to supporting artisanal mining communities, in cooperations with local governments and in support of mining operators, aiming to strengthen transparency in mineral supply chain and enhance good governance of the mining sector.

Senior ITSCI management engaged with provincial and national authorities in Goma, North Kivu, and Kinshasa respectively, including with high-ranked military officials, to raise serious concerns and request actions, including on the situation on PE 4731 and associated risks for ITSCI-monitored mines. Similar engagement has also taken place with the Rwanda Mine, Petroleum and Gas Board (RMB) in Rwanda.

While there has been a collapse in due diligence on PE 4731 as mentioned above, government and ITSCI activities have continued in other areas. Enhanced control mechanisms and processes for traceability that had been implemented some years ago have demonstrated positive outcomes in avoiding minerals from unapproved sources entering the ITSCI supply chain.

ITSCI facilitated local multi-stakeholder committees (CLS) in Masisi territory which enabled all stakeholders to review risks and plan risk mitigation actions. In 2023, a total of 15 local CLS meetings took place in Masisi, discussing a total of 120 incidents.

In Rwanda, ITSCI continued to implement a targeted anti-fraud plan, implementing new control mechanisms aiming to identify possible irregularities with mineral contents before and after mineral processing and compared to mine sources. ITSCI also continues to transparently report incidents related to mineral plausibility at mine sites, and highlighting red flags related to mining companies via the ITSCI Due Diligence List shared with ITSCI members.

Differing information

The GoE reports that non-state armed group PARECO have been involved in mining activities at ITSCI-monitored site Bihula on PE 76. ITSCI has not to date received any reports from local stakeholders or through

our own field monitoring to confirm those allegations. No details are available from the GoE however, ITSCI continues to follow-up with on-the-ground teams and local stakeholders.

The GoE reports that the route used for mineral fraud to South Kivu was gradually abandoned in favour of Goma and Rwanda. While ITSCI reported positive actions taken by authorities and state forces to curtail fraud on certain routes in South Kivu taken in 2023, ITSCI still reported several incidents related to cases of minerals fraudulently transported to South Kivu.

END

About ITSCI

As a facilitation initiative, the ITSCI Programme provides information in a timely fashion to ITSCI Members, including recommendation on risk assessment and mitigation. Risks mentioned in this statement were recorded by ITSCI via the ITSCI incident management system and transparently reported to ITSCI members. ITSCI offers full membership to upstream companies and associate membership to downstream companies.

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