



global witness

# TIME TO DIG DEEPER

Companies exporting and trading minerals from the African Great Lakes have made some progress on responsible sourcing, but must do more

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The links between conflict, human rights abuses, corruption and mineral supply chains in the African Great Lakes region have been well-documented for over 15 years. In December 2010, the Democratic Republic of Congo, Rwanda and Uganda – alongside eight other states in the region – got together to combat these issues in what has come to be known as the “Lusaka Declaration”. Among their commitments was the formal endorsement of a five-step framework devised by the Organisation for Economic Co-operation and Development (OECD). This framework guides companies in the steps they should take to identify, manage and report on risks in their supply chains, a process otherwise known as “due diligence”. The “OECD Guidance” has since become the international standard for responsible mineral sourcing. In 2012, Congo and Rwanda incorporated it into domestic law. In 2014, companies in the region began to publish their first supply chain due diligence reports. These are hosted online by the Congolese Ministry of Mines and, for the large part, the main industry-run responsible sourcing scheme in the region, the International Tin Supply Chain Initiative (iTSCi).

## SUMMARY

This is the first detailed analysis of public supply chain due diligence reporting by companies that export minerals from the African Great Lakes region.



Our research focuses exclusively on companies that officially exported four minerals – tin, tantalum, tungsten and gold (also known as “3TG”)<sup>1</sup> – from eastern Congo, Rwanda and Uganda in 2015 (see full methodology in annex 1 and the list of companies in annex 2).

All these companies should publish an annual report setting out what risks they have identified in their supply chains and how they have addressed them, in line with the OECD Guidance. For those in Congo and Rwanda this is also a legal requirement. Risks – which may be related to human rights abuses, direct or indirect support to armed groups and bribery, among other things<sup>2</sup> – will almost inevitably arise. Detailed and robust risk reporting indicates that a company is living up to its responsibility and provides evidence that it is implementing the responsible sourcing plan or policy it has committed to. Reporting is also an opportunity to demonstrate improvement over time. The failure to report on risks suggests that a company is not scrutinising its supply chain closely enough, is being less than transparent, or both (see section 1).

Global Witness has found that over half of the companies analysed (36 out of 65) failed to publish a due diligence report in 2015. Of the 29 companies that did publish a report, 28 operate in the tin, tantalum or tungsten (“3T”) sectors. Only one of the 18 companies officially operating in the gold sector published a report.

The quality of the reports varied hugely. To evaluate this, we focused on what the companies’ reports tell us about how they are identifying and managing risks in their supply chain. We found that only seven of the 29 companies that reported described a specific risk encountered over the reporting period. Only two companies described in detail more than two risks encountered and the steps the company took to respond to these. Overall, most companies wrote about what they promise to do in the future, but include little on what they’ve actually done.

Turning to the global market, the 2015 due diligence reports of five of the international companies that traded these minerals reflected the same main shortfall: a lack of detailed reporting on risks identified and the steps taken to mitigate them.

On a more positive note, the regional reporting rate of almost 50% shows significant progress. It reflects companies’ increasing awareness of and commitments to their responsibility to conduct due diligence. Two years previously in 2013, no companies were publishing supply chain due diligence reports. Global Witness’ correspondence with companies further indicates that a small number are conducting due diligence, but failing to report on their efforts.

Congo in particular stood out – in a good way. While fewer companies in Congo reported than in Rwanda, the quality of their reports was higher. Six of the seven companies to cite a risk in their report were Congolese; only one Rwanda-based company cited any specific risks in its publically-available report. No companies based in Uganda published a due diligence report in 2015.

Congo’s Ministry of Mines is also the only Ministry in the region to host companies’ due diligence reports on its website. While many reports are missing, this service reflects an important step by the government towards transparency in the mining sector.



Diggers at an entrance to an underground cassiterite mine in South Kivu, eastern Congo. Global Witness found that, in eastern Congo, Rwanda and Uganda, almost 75 per cent of the companies that published due diligence reports in 2015 failed to mention any risks encountered in their work or how these were addressed. © Phil Hatcher-Moore, 2015.

This is a desk-based study and Global Witness has not compared companies' due diligence reports with what is happening at mine sites or along individual supply chains.

## 1. SUPPLY CHAIN DUE DILIGENCE AND PUBLIC REPORTING

### What is supply chain due diligence?

'Supply chain due diligence' is an ongoing process through which companies can identify whether there is a risk that the minerals they purchase or handle have been linked to human rights abuses, conflict or corruption, and put in place strategies to mitigate these risks where they are found to exist.

As a concept, it is based upon the premise that companies have a responsibility to ensure that they do not profit on the back of serious harm to individuals, societies or the environment.<sup>3</sup>

Concretely, it is the steps companies must take to identify and address risks in their supply chain where they – inevitably – arise.

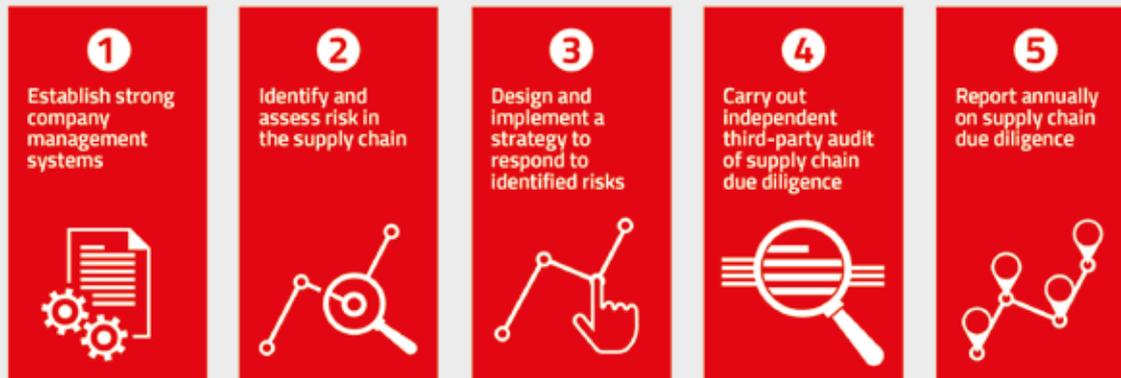
**"Companies must know – and show – that they respect human rights in their operations"** – UN Guiding Principles: An Introduction, 2011<sup>4</sup>

In 2011 the OECD published a five-step guidance to help companies with this task (see graphic 1). The guidance lays out a proactive and reactive process to support managing risks responsibly as part of a company's day-to-day business practices. It aims to help companies remain engaged in, source responsibly from and contribute to sustainable development in conflict-affected and high-risk areas.

The OECD Guidance has become the international standard for responsible mineral sourcing. It builds on and is consistent with the principles and standards contained in the OECD Guidelines for Multinational Enterprises<sup>5</sup> and puts into practice pillar two of the UN Guiding Principles on Business and Human Rights.<sup>6</sup> It forms the basis of a law in the European Union,<sup>7</sup> another in the U.S.<sup>8</sup> and industry guidelines published by a Chinese chamber of commerce in 2015.<sup>9</sup> In Congo and Rwanda, it has been incorporated into domestic laws governing their 3TG sectors.<sup>10</sup>

**"The appropriation of the OECD due diligence guidance by mining companies operating in Congo's 3T and gold sectors is a major advance towards establishing responsible supply chains free from links to conflict"** – Congo's Minister of Mines, 2016

## OECD's 5-STEP FRAMEWORK



The OECD Guidance is global in scope and all companies buying, selling or handling any minerals should conduct due diligence on their supply chains. However, the extent and nature of an appropriate level of due diligence for each company depends on individual circumstances, such as the size of the company, its sector, location and position in the supply chain.<sup>11</sup> In other words, Apple's due diligence should look very different from that of a one-person operation run out of Kigali, and De Beers' due diligence should differ significantly from that of a young jewellery designer based in Antwerp. For the purpose of this paper, we focus exclusively on the 65 – relatively small – companies that officially exported 3TG from eastern Congo, Rwanda and Uganda in 2015 (see methodology in annex I).

**“Practical challenges” may be met by “participation in initiatives on responsible supply chain management,” but “companies retain individual responsibility for their due diligence” – OECD Guidance, 2016**



Cassiterite ore, from which tin is derived, dries in the yard of a mineral trader's house in the town of Mwenga in South Kivu, eastern Congo. Global Witness found that over half of the companies analysed failed to publish a due diligence report in 2015. Of those that did publish, 97% operate in the tin, tantalum or tungsten sector. Only one of the 18 companies officially operating in the Great Lakes region's gold sector published a due diligence report in 2015. © Phil Hatcher-Moore, 2015.

### Why public reporting is necessary

Public reporting – step five of the OECD Guidance – is an integral element of due diligence (see annex 3). It is a key step in translating theory into concrete impact and ensuring the supply chain as a whole delivers change.

Robust, detailed and transparent reporting generates public confidence in the due diligence measures companies are taking.<sup>12</sup> It is the means through which companies can demonstrate to investors, shareholders, customers and the general public that they are regularly and dutifully assessing and addressing risk. It furthers transparency and is one way of showing the company is implementing the due diligence policy it has committed to. It is an opportunity for companies to take stock of the risks they are encountering and to provide information on how they have been responding to the dynamic environments they work in, how effective these efforts have been and how they are evolving over time.

But this is only part of the picture. Public reports are also a vehicle for sharing information on risk throughout the supply chain. Companies may do this bilaterally, but if the information is not public and open to independent scrutiny it may be unreliable. Public reporting is a crucial mechanism to ensure that all companies profiting from the minerals in question can be engaged in addressing the risks associated with their extraction and trade; if profits are shared along the supply chain, then responsibility should be too.

**“The publication of reports by mining companies will reinforce the government's efforts, and generate confidence among smelters and end-users. These reports comprise a guaranty that mining companies have truly carried out due diligence using transparent and open procedures” – Congo's Minister of Mines, 2013**

Companies further down the supply chain (such as international traders, smelters, refiners, component manufacturers or consumer-facing brands) require this and other information so that they too can identify and respond to risks. They also need it so they can engage with the upstream (companies closer to the mine) in ways that are helpful. For example, by providing expertise and training, adjusting contracts or putting pressure on the relevant governments or third parties to help remedy risks.

As such, due diligence reporting is a means of both honouring and *sharing* responsibility: if a comprehensive record of risks exists in the public domain, bigger international minerals traders and handlers cannot reasonably brush them under the carpet. If your supplier encounters a risk, it's your risk too and you must take ownership of and engage in resolving it.

**“Transparency is a corner stone of supply chain due diligence, without which companies can't account to the public, consumers and regulators”**  
– Tyler Gillard, OECD, December 2016

### **What level of public risk reporting is required to generate positive impact?**

Having described itself and its operations, the company must clearly describe the identified risk and each step it has taken to address that risk. This information must be detailed enough for other companies in the supply chain to be able to act to help address the risk, where appropriate.<sup>13</sup>

Similarly, there must be enough detail to assess whether a risk reported one year is the same or different to one reported the year before. Regular detailed risk reporting shows whether the company's efforts to manage risk are effective and helps to build a picture of improvement over time.

Companies should draw on diverse sources of information. They should of course use the information provided in their suppliers' due diligence reports (where these exist), as explained above. Other sources include, but are not limited to, public reports from governments, local and international media, maps, industry literature and – most importantly, for local exporters – the company's own on-the-ground assessment teams and networks.<sup>14</sup>

Compared to international downstream companies like Boeing and Intel, the companies in our study are located within a few hundred kilometres of the mine sites they source from and benefit from having an ear to the ground. This is invaluable for profit-driven decisions – and should be for identifying and managing risk too.

For more information on what the OECD Guidance says about reporting on risk, please see annex 3.

## **2. HOW MANY COMPANIES REPORTED IN 2015?**

Overall, 29 of the 65 companies (45%) that officially exported 3TG from eastern Congo, Rwanda and Uganda in 2015 published a due diligence report for that year (see table 1). This regional reporting rate of almost half is a significant improvement on 2014. Two years previously, no companies were publishing supply chain due diligence reports.

However, at the country and provincial level, the numbers tell a different story. In Rwanda 70% of companies published a due diligence report for 2015. This drops to 45% of companies in eastern Congo. No Uganda-based companies published a report in 2015.

Within Congo, 71% of companies in North Kivu, 67% of companies in Tanganyika, 57% of companies in South Kivu, 44% of companies in Maniema and no companies in Ituri published a due diligence report for 2015.<sup>15</sup>

Only one of the 18 official gold exporters – Cavichi, based in South Kivu – published a supply chain due diligence report for 2015.<sup>16</sup> We look at Cavichi's report in more detail below.

Due diligence, including public reporting, has been a legal requirement in Congo and Rwanda since 2012.<sup>17</sup> Companies that fail to publish due diligence reports on an annual basis are, therefore, in breach of the law.

For a full list of the regional exporting companies covered by this report and whether or not they published in 2015, see annex 2.

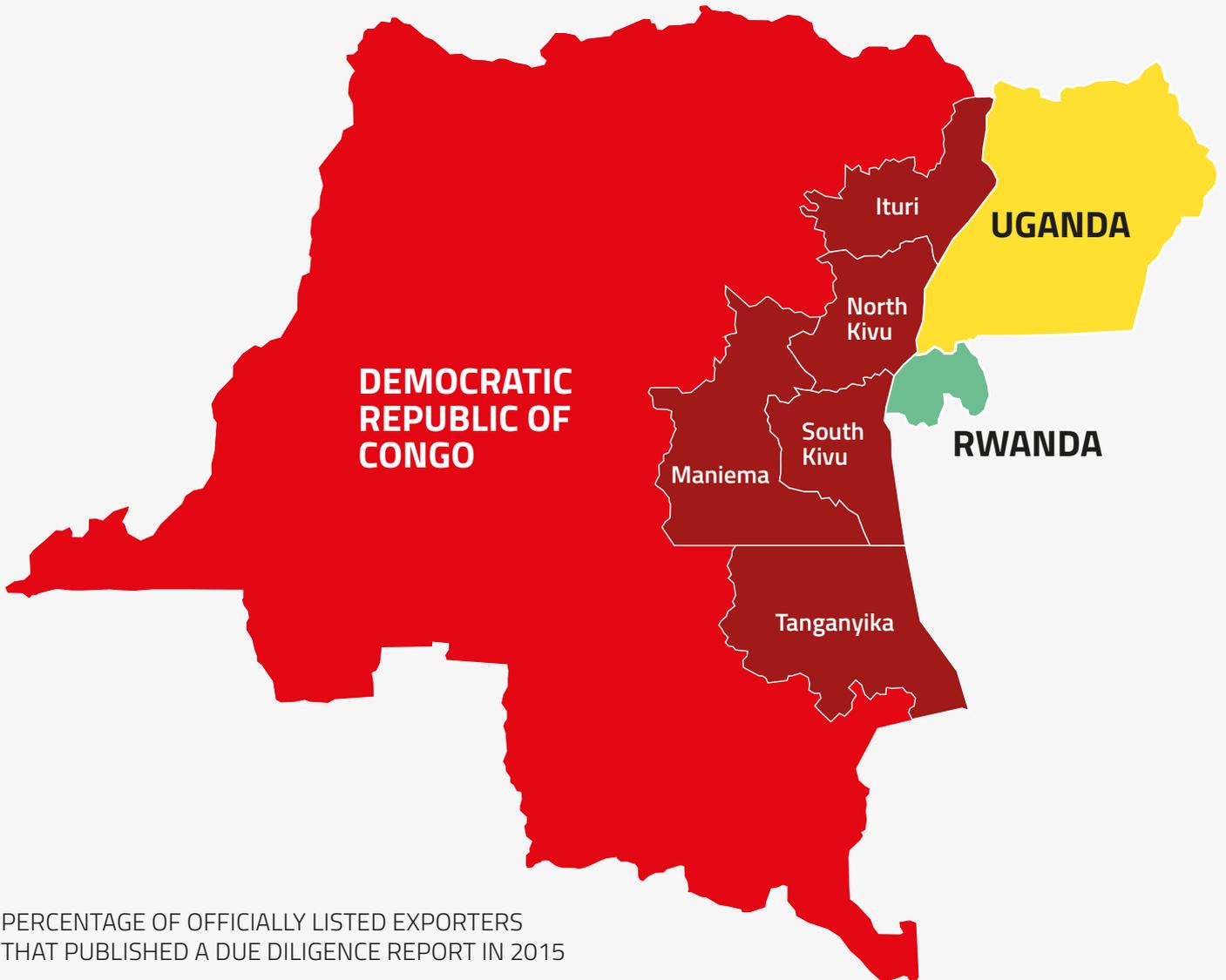
Country	Province	No. of companies listed	No. of companies that reported 2015	Sector – 3T or gold	Per cent that published
Congo	North Kivu	7	5	3T	71
	South Kivu	14	8	3T & gold	57
	Tanganyika	6	4	3T	67
	Maniema	9	4	3T	44
	Ituri	2	0	3T & gold	0
Eastern Congo overall		29	13	3T & gold	<b>45</b>
Rwanda		23	16	3T	<b>70</b>
Uganda		13	0	3T & gold	<b>0</b>
Total		65	29	3T & gold	<b>45</b>

**TABLE 1** above shows that Rwandan companies have a better reporting rate than Congolese companies and that Ugandan companies fall far behind. Tanganyika and North Kivu were the best performing provinces in terms of reporting. Only one gold exporter reported across all three countries sampled. While there is a law mandating due diligence in Rwanda and Congo, this remains only “best practice” in Uganda. Some Congo-based companies operate in multiple provinces, so the totals in the ‘eastern Congo overall’ row do not equal the sum of the number of companies per province. For a full list of the regional exporting companies covered by this report and whether or not they published in 2015, see annex 2.

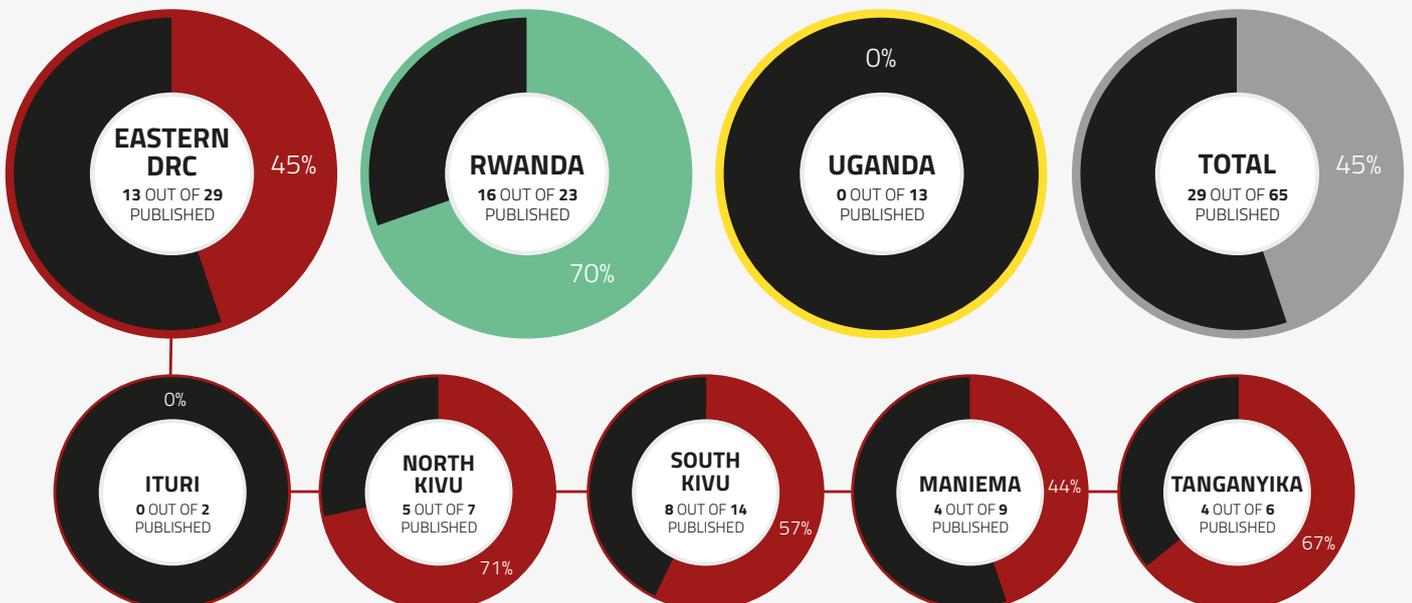


A gold buyer displays a recent purchase in the mining town of Mongbwalu in Ituri, eastern Congo. Global Witness found that only one of the 18 companies officially operating in the Great Lakes region's gold sector published a due diligence report in 2015. Companies in this sector are seriously lagging in terms of their due diligence efforts. © Getty Images, Spencer Platt

# PERCENTAGE OF COMPANIES THAT REPORTED PER COUNTRY OR PROVINCE



PERCENTAGE OF OFFICIALLY LISTED EXPORTERS THAT PUBLISHED A DUE DILIGENCE REPORT IN 2015



### 3. THE NON-REPORTERS: GLITTERING OMISSIONS

Only one gold exporter published a due diligence report in 2015. The gold sector is lagging far behind in terms of due diligence reporting, yet it is arguably the one that needs it the most. Gold is a high-value, fungible commodity that can be easily smuggled in small quantities. For those who choose to follow the rules, trade is difficult. In eastern Congo, for example, only a small number of gold sites are validated.<sup>18</sup> This means most gold is likely to come from non-validated sites and is therefore not technically eligible for export.<sup>19</sup> Relatively high provincial tax rates coupled with informal taxes and administrative fees also make exporting through official channels a punitive exercise.<sup>20</sup>

#### Congo's gold sector: only one company reported

Global Witness estimates that 94% of Congo's gold left the country illegally in 2014;<sup>21</sup> others believe the figure may be as high as 98%.<sup>22</sup> The research institute IPIS found that between 2013 and 2015 there was far more armed interference in eastern Congo's gold sector than in its 3T sector (64% compared to 21% of artisanal mines, respectively). Gold is also the most important mineral in eastern Congo's artisanal mining sector in terms of employment, with "around 80% of the miners in [IPIS'] 2013-2015 dataset working in gold mines."<sup>23</sup> Companies in Congo's gold sector are therefore at a higher risk of being connected to acts of violence than those in the 3T sector. Yet they appear to be doing little to mitigate this.

For example, Namukaya, a South Kivu-based gold exporter formerly known as CongoCom, has been cited on numerous occasions by the UN for allegedly trading in gold which has financially benefitted armed groups and members of the Congolese army.<sup>24</sup> Alfa Gold, another South Kivu-based exporter, was found to be buying gold from a company that had paid armed groups in cash and arms, as revealed by Global Witness in July 2016.<sup>25</sup>

Cavichi – the only gold exporter that reported for 2015 – was another subject of Global Witness' July 2016 exposé.<sup>26</sup> We recognise Cavichi's reporting efforts, which include an example of a red flag (a sharp drop in the amount of gold coming from their supplier) and how it responded to this (a visit to the mine). It reported on what it found (a new tax introduced by the *chefferie*,<sup>27</sup> dangerous conditions at the mine site and the road in a state of decay due to the rains), but not how it followed-up on this.



Young men manning gold dredges on the river Ulindi in Shabunda, South Kivu, eastern Congo. In July 2016, Global Witness revealed that Alfa Gold, a South Kivu-based exporter, had bought gold from a private Chinese-owned company that had paid armed groups in cash and arms during a gold rush in the region. Cavichi – the only gold exporter that published a due diligence report for 2015 – was another subject of Global Witness' 2016 exposé. © Global Witness.

Cavichi stated that in 2015 it bought all its gold from one site – Nyakabindi in South Kivu. However provincial statistics from 2014 show that Cavichi bought gold from a number of areas, including Kamituga, Shabunda and Lugushwa.<sup>28</sup> This indicates that, one year later, the company might be hiding the true origin of its gold. The company further failed to report on the massive uptick in gold production from Shabunda in 2015, which – like the sharp drop it did report on – is also a red flag. Cavichi's patchy reporting, particularly given its recent history, undermines its due diligence efforts.

In response to Global Witness, Cavichi's lawyer stated that the company went into liquidation in June 2016. He noted that prior to this, Cavichi acted with "strict respect for Congolese laws" and "best practice" in the mining sector. He stated that Cavichi did not buy gold from Shabunda in 2015 and questioned the authenticity of the documents seen by Global Witness.

#### Rwanda's gold sector: exports but no exporters

Valued at US\$30 million, Rwanda's gold exports were booming in 2015.<sup>29</sup> Gold was the country's fifth largest export commodity by value in that year.

Yet, when Global Witness asked the Rwanda Natural Resources Authority (RNRA) for the names of all 3TG exporters in 2015, the list provided by the authority cited only 3T exporters. So who is exporting all the gold?



Diggers working in an open-pit artisanal gold mine in Ituri, eastern Congo. Global Witness estimates 94% of Congo's gold left the country illegally in 2014; others believe this figure to be as high as 98%. Many of Congo's artisanal gold mines are regularly affected by armed interference. The sector is high risk, yet gold companies appear to be doing little to play their role in mitigating this risk. © Reuters, Finbarr O'Reilly.

As far as we are aware, Rwanda only has a small number of artisanal gold mines.<sup>30</sup> No gold exporters were listed by the RNRA for 2015, so none featured in our sample of companies and no 2015 due diligence reports were identified in this sector.

Global Witness, the UN and others have repeatedly reported on the smuggling of Congo's minerals into and out of Rwanda.<sup>31</sup> This is a high risk sector. Companies buying, handling and selling gold must comply with Rwanda's supply chain due diligence law and use their reports to evidence the steps they are taking to mitigate risk.

## Uganda, where the government and companies are failing to live up to commitments

Uganda is an important transit state for minerals from eastern Congo, but it has a tainted history. In the past, it has housed traders whose business model depended on buying cheap, looted Congolese gold and selling it on at competitive prices.<sup>32</sup> Two of the five companies named on the UN sanctions list related to allegations of financing armed groups in eastern Congo are Ugandan.<sup>33</sup> The Ugandan government has often been criticised, particularly by the UN, for doing little to stem the flow of smuggled gold from Congo.

Like Congo and Rwanda, Uganda is one of the 11 African states that played a role in drafting the original text of the OECD Guidance.<sup>34</sup> It formally endorsed the Guidance in 2010 and regularly sends delegations to international forums on responsible mineral sourcing.<sup>35</sup> However, unlike in Congo and Rwanda, there is no legal obligation for companies operating in Uganda to conduct supply chain due diligence.<sup>36</sup>

No companies in Uganda published a due diligence report in 2015. One company on the Ministry of Energy and Mineral Development's list of 2015 exporters – 3T Mining (U) Ltd. – published a conflict minerals policy and statement on its website, but no due diligence report.

In February 2017 Uganda's President, Yoweri Museveni, inaugurated a major new Belgian-owned gold refinery, African Gold Refinery (AGR), in Entebbe.<sup>37</sup> While AGR was exporting gold from Uganda in 2015,<sup>38</sup> it did not appear on the Ministry of Energy and Mineral Development's official list of exporters for 2015 and is therefore not in our core sample of companies.

Gold exports are not taxed in Uganda – export permits are issued upon proof of payment of the royalty (if mined in Uganda) or the gold import fee (if for re-export), alongside other documentation.<sup>39</sup> At the refinery's inauguration, President Museveni declared the removal of this import fee on gold, as well as the royalty on gold miners from three of Uganda's main gold producing areas, stating "they should bring their gold to AGR ... Africa is bleeding because of the stupidity of taxes."<sup>40</sup> Global Witness has been informed that Uganda's Mining Act has not yet been revised to reflect the President's proposed changes.<sup>41</sup>

The Entebbe refinery has the potential to add all-important value to the region's gold exports. However, with porous regional borders and weak national regulation, the presence of such a facility has the potential to act as a magnet for gold from dubious sources in Uganda and neighbouring countries. With



African Gold Refinery in Entebbe is Uganda's first official gold refinery. It has been exporting gold since 2015 and was inaugurated in February 2017 by Uganda's President, Yoweri Museveni. The refinery has the potential to add all-important value to the region's gold exports, but with porous regional borders and weak national regulation, it also has the potential to act as a magnet for gold from dubious sources in Uganda and neighbouring countries. AGR has not yet published a supply chain due diligence report. © Global Witness.

no export taxes and the proposed removal of the import fees and royalties, the country's current fiscal regime on gold risks seriously minimising the sector's contribution to the national treasury and undermining the opportunities the refinery may bring.

Despite operating since 2015, AGR is yet to publish a supply chain due diligence report demonstrating the steps it has taken to identify and mitigate the risks in its supply chain.

In response to Global Witness, AGR said that in order to publish a due diligence report, it "would require the prior knowledge and proper consent of its clients and suppliers who have since withheld their consent." The company added that it has published "due diligence guidelines and procedures," which it shared with Global Witness. It does not think that Uganda is a high risk context and location, stating that the very reason AGR was established here was "because of political stability." It added that its "stringent due diligence procedures diminish any risk," and that "we are able to screen our customers and reject any unworthy gold."

AGR also pointed out that, as a refiner, they operate under and declare exports through Uganda's Ministry of Finance not the Ministry of Energy and Mineral Development, and therefore wouldn't appear on the latter's list of exporters. Regarding Uganda's tax regime on gold, the company

argues that the national treasury receives "a greater contribution from indirect taxes rather than direct taxes."

The Ugandan government must introduce a law requiring companies to conduct supply chain due diligence in line with the OECD Guidance as soon as possible, as Congo and Rwanda have done. This law must not exclude the country's gold sector. It should further act fast to bring its mining legislation up-to-date by introducing smelting and refining licences, and export taxes applicable to processed gold.<sup>42</sup>

#### 4. THE 2015 REPORTERS: WHAT DID THEIR DUE DILIGENCE REPORTS TELL US?

We evaluated the companies' 2015 due diligence reports based on what they tell us about how they are identifying and managing risks in their supply chain, as per the OECD Guidance (see section 1 and annex 3). The quality of the reports varied hugely, ranging from unsigned one-page statements to reports that described multiple risks and the steps the company took to manage them in relative detail.

We found two main, interconnected, shortfalls:

**1. The majority of the reports more closely resemble a responsible sourcing policy or plan, than a due diligence report.**<sup>43</sup> In other words, the companies wrote about what they commit to doing, but not about what they have done.

**2. The level and detail of public reporting on risk was very weak.** Some companies failed to report on major incidents or stated inaccurately that there had been no risks over the reporting period. Others claimed to have done detailed risk assessments but these were not made public.

Overall, the quality of the reports published by companies based in Congo was higher than those of its neighbours: six of the seven companies that described a specific risk encountered over the reporting period were based in Congo, as were the only two companies to describe in detail more than two risks and the steps taken to respond to these (see section 5). Only one Rwanda-based company cited any specific risks in its publically-available report. No Ugandan companies published a report in 2015, so they are not discussed in this section.

Below we look at some examples of weak risk reporting in more detail.

## Reports lacking substance

Just under half of the 29 companies that reported published a responsible sourcing policy or plan and labelled it as a due diligence report.<sup>44</sup> Some of these companies provided additional information, such as the management structure responsible for due diligence and a description of the company's control systems over the mineral supply chain. But this is *not* due diligence reporting; these are only two elements of what a company's report should cover<sup>45</sup> and provide no information on the risks encountered or how these were mitigated.

The policies and plans these companies have published show that they understand the principles and recommendations of the OECD Guidance. But they don't appear to be implementing them.

In May 2015, at least seven companies in our sample attended the annual OECD Forum on Responsible Mineral Supply Chains.<sup>46</sup> Two of these failed to publish a report at all for that year (Sakima and Canada-based Banro's subsidiary Namoya<sup>47</sup> – both in Congo). Of the five that did, only three cited any detail on risks in their supply chains (Mining Mineral Resources (MMR) and Société Minière de Bisunzu (SMB) in Congo; Minerals Supply Africa (MSA) in Rwanda). Global Witness wrote to Banro and Sakima, but did not receive a response.

Four companies' due diligence "reports" were unsigned one or two page statements on their responsible sourcing policy (Tawotin, Sunrise, Wolfram Mining and Processing (WMP) in Rwanda; Britcon in Congo). Of these, one – WMP – even failed to specify the period the report covered.<sup>48</sup> Two reports were almost identical (African Panther Resources Rwanda and Waycor – both Rwandan).

Part German-owned African Panther Resources Rwanda (APRRW)<sup>49</sup> told Global Witness that it does "not know why another unrelated company's due diligence report appears to be identical," though it says it paid an unnamed local company to draft and design its due diligence report. This indicates that APRRW is taking little responsibility for its due diligence and undermines the credibility of its report. APRRW said it takes its "obligations towards conflict minerals policies [...] very seriously." Waycor, Sunrise and WMP failed to respond to Global Witness' request for comment. Part British-owned Britcon replied "in 2015 we exported using our partner at the time," but did not respond to our questions on due diligence. We were unable to contact Tawotin.

## Companies inaccurately stated they found no risks

Seven companies explicitly stated that they did not encounter any risks in 2015 (Société de Recherche, Extraction, Achat et Vente des Minerais et Carrières (SEAVMC), Trading Services Logistics (TSL), Boss Mining Solution, Tantalum Minerals Trading (TMT), Waycor and APRRW in Rwanda; Britcon in Congo). Risk is a day-to-day business reality in the extractives sector, whether in the Great Lakes region or elsewhere, and such statements are implausible.<sup>50</sup>

A company that states it encountered zero risk during the entire year may think its message is reassuring to the outside world, but in reality this has the opposite effect; it is a major red flag. iTSCi independently and publically listed incidents associated with all seven of these companies' supply chains in 2015, including alleged mineral theft and illegal mineral sales (see box 1). Such risks should have been reflected in these companies' due diligence reports.

Global Witness wrote to five of these companies for comment (we were unable to contact Boss Mining; for Britcon's response see above). TMT failed to reply. APRRW responded that, as a "relatively small mineral trading company," its supplier base "can be easily and closely monitored and hence no risks were flagged in that particular year."

Meanwhile, SEAVMC and TSL both responded citing examples of specific risks encountered in 2015, as well as the constructive steps they had taken to mitigate and follow-up on these. This is exactly the kind of information these companies should have published in their due diligence reports.

SEAVMC added that its failure to include detail in its 2015 report "may be due to the fact that it was the first time" to report and that it is "striving to improve the way of doing it day by day."

TSL replied with a version of its 2015 report with passages highlighted where it had included information on risk, which it believed iTSCi advised not to publish. TSL added that "some mistakes might have been found ... due to lack of knowledge and skills, or very little experience in these new [due diligence] programmes."

In response to Global Witness, iTSCi said that it asked TSL to remove names of suppliers and other contact information (in line with the OECD Guidance's recommendation regarding confidential information<sup>51</sup>). It said it did not suggest the removal of the passages on risk highlighted by TSL, stating "they were not there in our versions." iTSCi added that "documents in the region are somewhat unreliable and this is presumably a typical document mix up."

## **SUNRISE METAL COMPANY LTD 2015 Due Diligence Report**

SUNRISE METAL COMPANY LTD is a privately-owned company in Kigali, Rwanda. The company aims to do mineral trading business and mining, focusing on Tantalite, Wolfram and Cassiterite (3Ts in short).

We fully understand and support the aim and objectives of the United States' legislation on the supply of "conflict minerals" due to violence and conflict by illegally armed groups existing in the Eastern DRC region which causes humanitarian crisis and human rights abuses. We are aware of and will adhere strictly to the OECD Due Diligence Guidance (especially Annex II). That is to say, we will avoid any approach of "conflict minerals" which directly or indirectly support any illegally armed groups in the DRC as well as its surrounding countries.

According to OECD Guidance Annex II standards, we have made our due diligence plan and up to now we have carried out our due diligence as follows:

1. All our suppliers are in the iTSCi mine list;
2. All the materials we buy are tagged and have the traceability documents;
3. We always require our suppliers to undertake reasonable due diligence with their supply chains. Relevant terms on due diligence are added in the supply contract to make these an essential part in the supply chain.
4. We keep working closely within the framework of iSTCi's tagging program, making sure that each bag of mineral is tagged and traceable.
5. Mines visits are made to certain suppliers and visits plan have been made due to time availability;
6. All taxes required by the Government have been paid legally;

An example of a poor due diligence report. This was not the only company to publish a one-page report in 2015; many companies wrote generic one- or two-pagers on what they commit to doing rather than what they've actually done in terms of risk identification and management. Some companies failed to report on major incidents or stated inaccurately that there had been no risks over the reporting period. 55% of companies in eastern Congo, Rwanda and Uganda failed to publish a report at all in 2015.



Diggers at work in an artisanal gold mine in North Kivu, eastern Congo. Millions of people in eastern Congo rely on the difficult and often dangerous artisanal mining business for an income. Companies exporting and trading minerals from the Great Lakes region must do more identify, address and be transparent about risks in their supply chains, from dangerous working conditions to human rights abuses, conflict and corruption. © Panos, James Oatway.

### BOX 1: iTSCi's incident log

One of the services iTSCi offers companies to assist them in implementing the OECD Guidance is a database of incidents. This is one source of information companies can use when doing due diligence checks on their supply chains. Other sources of information include local and international media, non-governmental organisations (NGO), UN and industry reports.

iTSCi's incident databases are compiled using information from companies, whistleblowers, local NGOs and UN reports, as well as iTSCi's own on the ground teams operated through its field partner, Pact. Pact's teams visit mines, processing and storage facilities, and mineral transport routes.

Once information is received and verified, the incident is recorded in iTSCi's "incident log" and reported to iTSCi member companies and other relevant stakeholders for joint discussion and follow-up. These incident logs are eventually made available to the public on iTSCi's website.<sup>52</sup>

Incidents may be resolved and closed, remain under investigation and open for months, or simply remain unresolved, for example due to lack of engagement from one or more responsible parties.

Many companies failed to reflect the incidents logged by iTSCi, or the broader risks relating to these, in their 2015 due diligence reports.

### Companies failed to mention major incidents

At least two companies (Rutongo Mines and New Bugarama Mining Company (NBMC) – both Rwandan) failed to cite major incidents in their due diligence reports: the death of miners on their concessions.<sup>53</sup> In both instances, the miners were digging without permission in areas shut off by the companies for security purposes.

Belgian-owned NBMC told Global Witness that it implemented a "corrective action plan" to prevent a repeat of this "tragic incident." It added that it disagrees with Global Witness that it should have reported on this event.

Rutongo said it submitted its risk assessment to iTSCi, alongside its due diligence report for publication. This document, attached to Rutongo's response to Global Witness, references the general risks of mineral theft and accidents on their concession, and the basic steps the company is taking to mitigate these (see annex 4). However, iTSCi did not publish this section of the company's due diligence report – see box 3 below.

Rutongo further stated that it logs "literally hundreds of [iTSCi] incidents reports" every year and sends "numerous letters and communiqués to officials and agents," but that it continues to struggle with the problem of mineral theft while the "illegal trade continues to

flourish.” The company states it “believes [its] reporting conforms to [the] standard” detailed in the OECD Guidance.

In their responses to Global Witness, a number of Rwandan companies cited the problem of mineral theft from their concessions and the illegal mineral trading that drives this. Again, this – and the steps taken to mitigate it alongside the relevant stakeholders – is the kind of information that should have been included in their due diligence reports.

### **BOX 2: Sharing information for equitable supply chains at Abahizi Cooperative, Rwanda**

Abahizi Cooperative was established in 2013 in Ngoma, Eastern Province, Rwanda. With around 90 members, it uses artisanal extraction and processing methods to mine cassiterite (tin) and coltan (tantalum).

Many of the exporters covered in this report buy their minerals from cooperatives like Abahizi, though not all of the cooperatives are as well organised. When Global Witness visited Abahizi in March 2017, cooperative members showed us shelves and shelves of detailed reports on incidents such as accidents at the mine and theft of minerals, diligently logged and filed as and when they arise. Members of Pact (iTSCi’s field partner in Rwanda) regularly visit Abahizi. But, at the time of visit, the cooperative members were not aware that this information could or should be passed on to their customers.

Cooperatives as well organised as Abahizi make their customers’ due diligence a lot easier. They are producing detailed information on incidents, which their buyers should be asking for and using in their due diligence, and reflecting in their annual reports.

Global Witness didn’t find a public 2015 due diligence report for FECOMIRWA, the main exporter of Abahizi’s minerals and an iTSCi member since 2011. We were unable to contact FECOMIRWA for comment.

### **Risk assessments done but not made public**

Four companies claimed that they had conducted on-the-ground risk assessments and written detailed reports based on these. But, these reports were either in an annex

that was allegedly not published by iTSCi online alongside the report (Eurotrade International and Rutongo Mines – two Rwandan subsidiaries of British Virgin Islands-based Tinco Investments Ltd), not available for confidentiality reasons (MSA – also Rwanda-based), or only available as a hard copy in the company’s offices (Société Générale de Commerce (Sogecom) – Congo-based).

In response to Global Witness, MSA – a company owned by Switzerland-based, German-owned Cronimet Central Africa AG – acknowledged the shortcoming in its 2015 report. It has since published a “corrected version,”<sup>54</sup> which includes detail on specific risks encountered and the steps taken to respond to these. The company states it will “make sure our new reports take note of” Global Witness’ recommendations.

Sogecom – a company co-owned by one Indian and one British national<sup>55</sup> – responded that it had carried out several site visits in 2015 and submitted reports “externally,” and has “not received any indication from the [Congolese] government that our report did not satisfy legal requirements.” It added, “given our lack of experience and know how in producing such reports, we are happy to receive constructive feedback.”

As mentioned above, Eurotrade and Rutongo – two Rwandan subsidiaries of Tinco Investments Ltd – both say they submitted their risk assessments to iTSCi as annexes to their due diligence reports, but iTSCi did not publish these – see box 3 below.

### **The seven companies that did report on risk – but progress needed**

Seven of the 29 companies that reported, or 24%, described at least one specific risk encountered over the reporting period in their public 2015 due diligence report (Congo Minerals & Metals (CMM), Bakulikira Nguma, MMR, SMB, Metachem and Amur in Congo; MSA in Rwanda). Of these, only two described in detail more than two risks encountered and the steps taken to respond to these (CMM, MMR). We examine the risk reporting section of these companies’ reports in more detail below.

We have used iTSCi’s public incident databases to compare the incidents logged there against the incidents or risks detailed in the companies’ due diligence reports.<sup>56</sup> While companies don’t need to duplicate iTSCi’s work, they should aim to provide the fullest disclosures possible and, at a minimum, detail the risks these incidents reflect. This is a desk-based study and we have not verified what the companies’ wrote in their due diligence reports with field research.

## AMUR

*Amur was founded and is run by Congolese national, Antoine Rutera Muhindagiga. The company, also known as Amur/Mugote or Ets Amur, operates in North and South Kivu, and Maniema.*

Amur included examples of risk reporting, but only for its operations in North Kivu (not for those in Maniema or South Kivu). It reported on two incidents: the kidnap of a Concern Worldwide employee and an attack by an armed group, ADF, on roads it uses to transport minerals. The company further explained that it responded to these incidents by temporarily suspending use of the road. Four further and separate incidents were logged via iTSCI, related to mineral bag tagging and mineral theft, which Amur did not report on.

Amur told Global Witness that “small flaws” could be explained by a new due diligence management system that had been recently introduced in 2015. It said that its report “conformed to the OECD Guidance and legal obligations under Congolese law.”

## BAKULIKIRA NGUMA

*Bakulikira Nguma was founded and is owned by a Congolese national, Dieudonné Janda Bakulikira Nguma. The company, which also operates in the agriculture sector, has offices in Bukavu and Goma in South and North Kivu provinces, respectively.*

Bakulikira’s report includes scanned copies of four iTSCI incident reports, some of which are incomplete or illegible. These (briefly) explain the issue and the steps taken to address it. However, only one of these incidents matches one of the seven logged in iTSCI’s publically-available incident database for that period. It is not clear why there is a discrepancy between the incidents logged by iTSCI and those published by the company. It appears that the company has omitted a number of events from its report, including a truck transporting its minerals being attacked by armed bandits.

The problems Bakulikira reported were of a technical nature (e.g. error in completing log book, loss of tags during loading of the lot and numbering inaccuracies) and do not fully reflect the company’s operating context.<sup>57</sup> For example, the company did not cite any of the risks associated with a number of sites it sourced from in 2015, which were detailed in a report published by the Congolese NGO Max Impact.<sup>58</sup> These risks include one site being “pretty much abandoned”, another in a “critical

security condition” and another where minerals are fraudulently tagged as coming from validated mine sites. Bakulikira did not respond to Global Witness’ request for comment.

## METAL AND CHEMICAL SPRL (METACHEM)

*Metachem is a mineral trading company run by John Nsana Kanyoni, a prominent member of the Congolese Chamber of Mines (Fédération des entreprises du Congo - FEC). The company headquarters is in Goma in North Kivu and it is also active in South Kivu and Maniema.*

Metachem only reported one incident: in October 2015, “bandits” kidnapped an employee of an NGO called Concern Worldwide on the road the company uses to transport its minerals in North Kivu (the same incident Amur reported). Metachem responded to this incident by suspending its use of the road until the issue was resolved.<sup>59</sup> This is commendable action and reporting. However, there is a discrepancy between the number of incidents logged via iTSCI and the risks reported by the company. Metachem wrote that no incidents occurred connected to its operations in South Kivu and Maniema in 2015. Yet iTSCI’s incident log connects Metachem to thirteen incidents in those two provinces, including duplication of tags, discrepancy between logged export weight and tag-in weight, and the export of untagged minerals – all of which are red flags for minerals laundering and smuggling. The South Kivu ‘Comité provincial du suivi’ also reported an incident of Metachem handling stolen minerals.<sup>60</sup>

In response to Global Witness, Metachem confirmed that it did not publish all incidents encountered in 2015 in its due diligence report. It said it did not include the incidents logged via iTSCI in its 2015 report because they were “internal to the system” and are “still being resolved.” It further added that the incidents outlined above are not connected to the human rights and other violations outlined in the OECD Guidance. It stated that its 2015 report “conforms to the OECD Guidance and the [Congolese] Ministry of Mines’ framework” and that it aims to improve on any weaknesses in its 2016 report.

## MINERALS SUPPLY AFRICA (MSA)

*MSA was founded in 2008 by British businessmen and is now owned by Switzerland-based, German-owned Cronimet Central Africa AG. It is based in Kigali, Rwanda where it buys, processes and exports coltan (tantalum), cassiterite (tin) and wolfram (tungsten) – the “3Ts”.*

MSA's 2015 report includes a summary of its risk management plan, which lists a number of general risks and the measures the company plans to take in response. Elsewhere in its report, MSA provides some detail on more specific incidents. For example, it states that it temporarily ceased purchases from eight suppliers due to "serious irregularities about minerals traceability issues", but provides no information on what these "issues" were. The company further states that it wrote to seven of its suppliers for clarification on a red flag – a "surge in production supplied" – but none replied. MSA said iTSCi removed the tags and logbooks of three of the companies it wrote to, but it is not clear whether this was related to the same incident or how MSA itself reacted. iTSCi logged six incidents concerning MSA in 2015, mainly relating to traceability issues (e.g. variations in mineral bag weights or tagging irregularities), but these were not reflected in MSA's report.

As detailed above, MSA said it did not publish its "detailed due diligence actions and mitigation measures" undertaken in 2015 due to confidentiality reasons. The company has since acknowledged the shortcoming in its 2015 report and has published a "corrected version,"<sup>61</sup> which includes detail on specific risks encountered and the steps taken to respond to these.

## **SOCIÉTÉ MINIÈRE DE BISUNZU SARL (SMB)**

*SMB is owned and run by Ben Mwangachuchu. SMB exports tantalum from the mines at Rubaya in North Kivu where it has an agreement with the Cooperamma artisanal mining cooperative.<sup>62</sup> The company was previously known as Mwangachuchu Hizi International (MHI).*

SMB describes in detail its due diligence policies and procedures, but only refers to one particular risk in its report: the dangerous working conditions at D4 Gakombe mine site. The company details a number of mitigation measures, such as the provision of boots and hard hats to workers, and says it responded to this risk by suspending its sourcing in March 2015 while a "stabilisation plan" was developed, which it later shared with Global Witness. However, on 17 June 2015, a landslide occurred at D4 Gakombe during the stabilisation works, killing seven people and injuring nine.<sup>63</sup> Although mineral production was apparently suspended at the time, this tragic incident nonetheless occurred as the company was attempting to address the risk and should have been reported.

SMB also failed to report on a number of other risks evident from the incidents logged via iTSCi in 2015. These include: the risk of violence or misbehaviour among

security personnel contracted to supervise its premises (according to iTSCi there were two incidents when people were shot at an SMB site in 2015, one of which resulted in a civilian dying<sup>64</sup>); and the risk of smuggling and bribery (according to iTSCi, a smuggling attempt involving bribes occurred<sup>65</sup>). Overall, thirteen incidents were logged via iTSCi for SMB in 2015, but the company only reported on one.

In response to Global Witness, SMB wrote that corruption, bribery and fraud are "not tolerated" and that it has taken a number of measures to combat these activities. The company "categorically denies" allegations that its personnel behave violently towards the local population. It states that both shooting incidents cited above involved members of the mining police contracted to secure its site, not its own personnel. Finally, it states that "a multi-stakeholder commission concluded that the incident had no direct connection to the mining activities," but that it nonetheless "granted assistance" to the family of the deceased in a "purely humanitarian and voluntary capacity." SMB acknowledged that its due diligence report "could be improved", including by increasing its capacity to identify and document incidents.

The question for the purpose of this report is not who did what to whom, but what steps the company took to identify, mitigate and report on the incidents. SMB has a responsibility to document and report on all major risks relating to its operations, as well as a role to play (alongside its operating partner and other parties) in taking steps to prevent these recurring in the future.

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The kinds of risks cited by these five companies are a reality of doing business – particularly in high-risk areas – but this is not to say they are not manageable. However, these companies' lack of detailed reporting tells us little about what the company (or other stakeholders) are doing to address, remedy and, critically, to prevent them reoccurring in the future. Moreover, they transmit minimal information to other companies buying minerals from the African Great Lakes and their customers.

## **Two companies that reported in relative detail**

### **MINING MINERAL RESOURCES (MMR)**

*MMR is based in Lubumbashi, Tanganyika (former Katanga province). It is co-owned by companies based in Canada and the secrecy jurisdiction, British Virgin Islands. MMR holds 37 mining titles and, since 2010, has had*

*exclusive access<sup>66</sup> to four major artisanal mining sites in Tanganyika.*

MMR reported on five risks, how it responded and the subsequent follow-up across three tables. These incidents include members of the armed group, GR Manono, breaking into a mine and attacking civilians; a so-called pygmy group attacking a village 4km away from one of their sites; Congolese army officers attempting to access a mine without authorisation, accompanied by an individual posing as an iTSCi agent; and a violent protest that occurred after the body of a woman was found near one of the company's sites.

This is more detailed reporting than most companies published, yet this report too contains omissions. There is no mention, for example, of potential mineral smuggling or risks associated with the company's alleged tough security strategy at its Kisengo mine.<sup>67</sup> At least 37 incidents connected to MMR were logged via iTSCi in 2015 – including various incidents of mineral theft, document fraud, landslides and a pit collapse causing serious injuries to miners, and a truck crash causing one death and a number of injuries – dwarfing the five reported

on by the company.<sup>68</sup> MMR did not respond to Global Witness' request for comment.

### **CONGO MINERALS & METALS (CMM)**

*CMM is co-owned by two Chinese nationals and has offices in Goma and Bukavu in North and South Kivu, respectively.*

CMM (formerly TTT Mining) has been cited in numerous UN reports connected to allegations of indirect financing of armed groups and criminal networks within the Congolese army, and was one of two companies suspended by the Congolese Ministry of Mines in 2012 for poor due diligence practices.<sup>69</sup> But it appears to have improved its efforts: in 2015 it was one of the companies to report on risk in the most detail. CMM wrote about 13 incidents (six more than were logged via iTSCi for that year) as well as how these were mitigated and followed-up on. The company also provided detailed information on its supply chain, though this is not expected under the OECD Guidance.<sup>70</sup>

A storm rolls over the mining town of Lugushwa in South Kivu, eastern Congo. Lugushwa is built around one of South Kivu's major gold concessions. Most of the town's inhabitants rely on artisanal mining activity for an income. © Phil Hatcher-Moore, 2015.



Other incidents may of course have occurred in connection to these companies that were not captured or reported via iTSCI. Conversely, a high number of incidents reported via iTSCI is not necessarily a bad thing, but could instead be connected to: an increase in the scale and scope of the programme; a greater understanding of and commitment to resolve the issues among relevant parties; improved transparency; and/or a greater tonnage of minerals traded, among other things.<sup>71</sup>

Identifying, mitigating and reporting on risk are the crucial components of due diligence. To a greater or lesser degree, these seven companies have all shown that this is possible. While we cannot infer from a desk-based study that this has translated into positive impact at mines sites and along supply chains, it is a first step and we expect to see more reports with more detailed risk reporting in following years.

### **BOX 3: Industry schemes and transparency in the due diligence reporting process<sup>72</sup>**

Two companies (Rutongo and Eurotrade) said they had cited risks and the steps they took to mitigate them in their 2015 due diligence report, but this information wasn't published.

The company representative for Rutongo and Eurotrade – two Rwandan subsidiaries of British Virgin Islands-based Tinco Investments Ltd – said that “the risk assessments for both mines [Rutongo and Eurotrade’s Nyakabingo] were submitted together with the due diligence reports to iTSCI.” “As far as we are aware, all our reports and risk assessments [...] are published via the iTSCI website.” (See annex 4 for copies of Rutongo and Eurotrade’s 2015 risk assessments.)

Global Witness wrote to iTSCI to ask what advice it gives to companies who wish to publish their due diligence reports on its website, whether any constraints are placed on these companies (for example, that they must not include detail on specific supply chains risks) and whether it has ever redacted company reports. We cited the cases of Rutongo and Eurotrade.

iTSCI responded that “public or private discussion of factors affecting competition, including commercial confidential information and supplier relationships, would be an issue under competition law and must not be encouraged or expected. [...] [OECD] Step 5 does not require the disclosure of specific risks which would identify such information, but requires annual reporting of a more general nature [...] The guidance contained in Step 5 is being followed.”

Elsewhere in its response, it added that companies are recommended to include information on “what kind of risks (e.g. untagged mineral, unknown suppliers, insecurity etc) [they] may face,” “how [they] assess those risks” and “an update on activities from [their] previous report.”

Regarding the cases of Rutongo and Eurotrade, iTSCI told Global Witness that their risk assessments “included comment on accidents, hygiene, lack of rule of law and other points that are beyond the scope of the iTSCI programme and such information would thus not be published as iTSCI cannot be seen to verify claims made by companies on those matters.” iTSCI said the “general remarks about traceability, thefts and costs [...] did not seem to add a great deal of information that was not already described in the bulk text of the reports which were uploaded in full, as well as other public comments frequently made by the same companies.” iTSCI further added it “did not instruct Tinco to remove the WRAC [‘Workplace risk assessment and control’] but asked whether the company was happy for us to upload without the WRAC” and the company representative allegedly agreed to this. iTSCI said that if they were to publish the risk assessment, it “would have involved redaction of the issues not relevant to the OECD [Guidance].”

iTSCI says that, in conclusion, it “has not required the redaction of relevant non-commercial or non-confidential information.”

iTSCI’s decision to advise the removal of information it states was published elsewhere, and its policy regarding the redaction of (non-confidential and non-commercially sensitive) issues “not relevant” to the OECD Guidance, suggest the scheme may be operating in an overly restrictive manner. It should not have such influence over the transparency of the due diligence reporting process.

iTSCI has done important work to facilitate the flow of minerals onto international markets and in the provision of information under very challenging conditions. However, in order to fulfil its role as assisting companies with their due diligence, it must remain a conduit for, not restrictor of, information.

For iTSCI’s principal response to Global Witness, see annex 5.

## 5. INTERNATIONAL COMPANIES TRADING MINERALS FROM THE GREAT LAKES REGION

The minerals exported by the companies in our sample flow out of the Great Lakes region to businesses and, ultimately, consumers the world over. The international companies trading these minerals connect local exporters with global markets, and they too must conduct due diligence on their supply chains and report on this (see section 1).

Using reports from the provincial mining authorities of North and South Kivu (we didn't find such reports for the other three Congolese provinces, Rwanda or Uganda), we were able to identify six of these international traders: AV8 Mining, East Rise Corporation, Malaysia Smelting Corporation, Trademet, Traxys and Specialty Metals Resources.

Global Witness found no public due diligence report for AV8 Mining, a trading company based in Rwanda and part-owned by two American nationals. The company sourced coltan from eastern Congo in 2015 and shipped minerals to a U.S. company the following year, according to shipping data.<sup>73</sup> Global Witness wrote to AV8 with a series of questions and requested a copy of their due diligence report, but the company failed to respond.

Global Witness found due diligence reports for the five other companies. However, although these companies mainly sourced from the local exporters that published relatively detailed reports, their 2015 due diligence reports reflect the same main shortfall: a lack of detailed risk reporting.

Hong Kong's financial district, March 2016. Specialty Metals Resources and East Rise Corporation, two international trading companies that traded minerals from Rwanda and eastern DRC in 2015, have offices in Hong Kong. The 2015 due diligence reports of both companies lacked detail on the risks identified in their supply chains or how they mitigated these. © Reuters, Bobby Yip.



### For example:

➤ Hong Kong mineral trader **East Rise Corporation** mentioned the general risks of conflict and “intermingling of smuggled tonnage with legitimately produced tonnage”, but provided little detail on these or other specific risks in its due diligence report. Its supplier, SMB, cited dangerous working conditions at a mine site and iTSCi logged a further 13 incidents associated with that company, but none of these risks were reflected in East Rise’s report. The timeframe of its “2015” report is unclear: the company refers to “shipments to be purchased” in 2016, it is titled “2015” where it is hosted online on iTSCi’s website, but it also includes a presumably out-dated reference to activities “anticipated to start during 2014”, suggesting the report hadn’t been thoroughly revised since 2013. The company delivered five shipments of tantalite (from which tantalum is extracted) to U.S. companies in 2015, according to shipping data. East Rise did not reply to Global Witness’ request for comment.

➤ Kuala Lumpur- and Singapore-listed **Malaysia Smelting Corporation (MSC)**, one of the world’s largest tin suppliers, wrote a one-page 2015 due diligence report. In the report, the company states that through iTSCi it visits mine sites and provides technical advice and assistance, but it provides no detail on this. It did not report on any risks. Its supplier, Bakulikira, cited four incidents and a further six were registered via iTSCi for the same year, including armed bandits attacking a truck transporting its minerals in South Kivu. MSC did not reply to Global Witness’ request for comment.

➤ Belgium-based **Trademet’s** 2015 due diligence report includes no detail on the risks the company encountered or how it dealt with these. One of its suppliers, Metachem, cited one incident in North Kivu – the kidnap of an NGO employee on its transport route – and a further 13 incidents were logged via iTSCi for its operations in South Kivu and Maniema. Another of its suppliers, Amur, also reported the kidnap incident, as well as an attack by an armed group on its transport route in North Kivu. A further four incidents were logged via iTSCi for Amur. However, none of these incidents or the more general risks they represent were cited in Trademet’s due diligence report. In response to Global Witness, Trademet stated that it follows-up on iTSCi incident reports in an organised and precise manner, and that the majority are resolved or in the process of being resolved. The company didn’t comment on the risks cited by Amur and Metachem in their reports. It states that its 2015 report “conforms to the rules” of the OECD Guidance and that the company is “learning, progressing and may eventually add more detail in the future, if this is required by the OECD.”



➤ **Traxys**, a metals and minerals trader registered in Luxembourg and majority-owned by US asset management firm The Carlyle Group, also failed to provide any information on specific risks identified or the activities undertaken to address these, despite one of its suppliers, CMM, detailing 15 incidents in its 2015 due diligence report. The company's 2015 report omitted North Kivu as a source of mineral, despite the fact that the company exported minerals from the province that year. In response to Global Witness, Traxys wrote that its due diligence processes are "a work in progress which we are always striving to enhance". It said that the omission of North Kivu was "an oversight," that it has reviewed its processes and that it "expect[s] this not to happen again".

The company "firmly believe[s]" that its due diligence reporting is in line with the standard set out by the OECD Guidance. Traxys further mentions that its report "rightly focuses on the risks facing our company," such as "potential contamination in the supply chain, reliability of the origin of material, or indeed smuggling." Global Witness found no mention of such risks in its publically-available 2015 due diligence report.

➤ Finally, **Specialty Metals Resources**, a trader with offices in Brussels and Hong Kong, also failed to include any detail on specific risks encountered and how these were addressed. While most of its minerals come from a mining company that it half-owns, NBMC

in Rwanda, this does not make it immune to risk. Five miners digging “illegally” died in NBMC’s concession in 2015, for example, but SMR fails to mention this and other episodes of mineral theft from the concession. The company also buys (“only tagged”) material from (“a very limited number”) of other suppliers, including WMC in eastern Congo. But, again, it fails to cite any of the associated risks, such as the laundering of mineral from non-validated sites. In response to Global Witness, SMR wrote that the risks encountered relating to NBMC “were managed and shared in a complete manner with our sole customer,” and that it therefore saw no reason to include them in its due diligence report. It wrote that it has been “dealing with WMC for many years” and that “the key is that we know our suppliers in and out.” SMR “believe[s] we are complying with the OECD standards.”

The three international traders that replied to Global Witness’ request for comment – Trademet, Traxys and SMR – all cited their minerals being tagged by iTSCi as an example of their risk management efforts. Trademet and Traxys wrote strong responses in support of the services offered by the scheme. While iTSCi can and should support the companies’ own efforts, it should not replace them. Membership of the scheme does not excuse companies of their individual responsibility to identify, respond to and remedy risks in their supply chain, and report on these actions.

With such weak public reporting, these six companies do not demonstrate that they are regularly and dutifully assessing and addressing risk in their supply chains. They provide little to show that they were even aware of the risks encountered by their suppliers in 2015.

These companies are well positioned to engage with their suppliers to mitigate the actual or potential risks in their supply chains. But by reporting in such little detail, it is impossible to assess their actions or to evaluate the progress they have made towards addressing risks over time.

Furthermore, the due diligence reports of these six companies transmit very little information downstream to *their* clients. The risks associated with the minerals’ extraction, handling and trade appear to vanish once they leave the country they were mined in. While their clients should of course be consulting multiple sources to evaluate the risks in their supply chains, these companies effectively act as an information bottleneck.

Such weak due diligence reporting should be treated as a red flag both by companies further down the supply chain and by iTSCi. After all, the supply chain is only as strong as its weakest link.

Millions of people in the African Great Lakes region rely on the difficult and often dangerous artisanal mining business for their livelihoods. It is a challenging context and companies that operate here have a responsibility to take all feasible steps to look out for problems in their supply chains and to manage them accordingly. Disengagement should only be a last resort.

Video monitors announce asset management firm The Carlyle Group’s listing on the NASDAQ in Times Square, New York, on 3 May 2012. The Carlyle Group majority owns Traxys, an international company that trades minerals from eastern Congo. Traxys’ 2015 due diligence report provided no information on any specific risks identified in its supply chain for that year. © Reuters, Keith Bedford.



Entrance to an artisanal gold mine in Mubende, Uganda. The artisanal mining sector is risky, in the Great Lakes region and elsewhere. The 2015 due diligence reports of the six international companies Global Witness identified to be trading eastern Congo’s minerals in that year provided little to demonstrate they are regularly and dutifully assessing and addressing risk in their supply chains. They show no evidence to indicate they were even aware of the risks encountered by their suppliers in 2015. July 2016, © Global Witness



#### BOX 4: iTSCi, PEPs and secrecy jurisdictions

Senior government officials or their relatives and associates who, as a result of their high-level position are deemed vulnerable to corruption, have become known in law and policy circles as ‘PEPs’ (politically-exposed persons).<sup>74</sup> To say that somebody is a PEP is not to say that they are corrupt; the head of every state in the world is a PEP. It simply means that there is a greater risk that this individual could have access to state funds or could be in a position to take bribes, for example.

PEP involvement in company ownership or management is a red flag for increased corruption risks and should be treated as such: companies owned by, or connected to, PEPs should be subjected to “enhanced due diligence” procedures.<sup>75</sup> In other words, extra checks to ensure that nothing suspect is going on.

iTSCi counts a number of PEPs among its upstream member companies (we haven’t checked its downstream members, as these fall outside the scope of this report). For example, companies run by individuals with “several high-level and influential positions in DRC mining governance” and another described as a “prominent” provincial and national politician. One company is owned by an individual “briefly affiliated to the political aspect of [former armed group] CNDP” (though this is “not ongoing and is known by the Congolese authorities,” according to iTSCi in 2017<sup>76</sup>).

Numerous iTSCi member companies have been named in past UN reports connected to conflict financing in eastern Congo, and many more are owned by, or trade, through companies based in secrecy jurisdictions, such

as Panama, Mauritius and the British Virgin Islands. As Global Witness has argued elsewhere,<sup>77</sup> such secrecy jurisdictions make it easy for companies and individuals to hide and move suspect funds around the world without detection. They make it very difficult to identify who a company’s true beneficial owners are and therefore which individuals due diligence should be conducted on.

iTSCi adopts an inclusive policy and discloses basic (but anonymous) company ownership information and any potential conflict of interests in its members’ database.<sup>78</sup> The scheme does not have a specific policy on PEPs however, as this issue is “not explicitly referred to in the main body of the [OECD Guidance].” “We cannot base interpretations on possible intended meaning or spirit,” it added.

The number of iTSCi member companies that are owned by, or associated with, PEPs should be a reminder that iTSCi only offers a specific set of tools, and that Know Your Counterparty (KYC) due diligence and the associated risk reduction strategies is not one of them.

Companies must be aware of this, both when considering new business relationships and when deciding what level of due diligence to apply to existing supply chains, particularly vis-à-vis corruption risks such as money laundering and bribery.<sup>79</sup> Industry scheme membership must not be interpreted as a de facto stamp of all-round responsible business behaviour.

iTSCi told Global Witness that it “can communicate [our] advice to members” and “note[s] that [companies] may themselves wish to apply enhanced due diligence as part of their own responsibilities.”

## 6. THE RESPONSIBILITY OF STATES

All states have a duty under international human rights law to protect people against human rights abuses by companies.<sup>80</sup> This means they have a duty to ensure that the companies within their jurisdiction are fulfilling their responsibility to protect human rights and to take meaningful action if they are not. All states that endorsed and adhere to the OECD Guidance<sup>81</sup> – including Congo, Rwanda and Uganda, as well as many of the countries where these companies are ultimately owned – should be doing so not just for human rights risks, but all the risks outlined in Annex II of the OECD Guidance, including direct or indirect support to armed groups, bribery, money laundering and the non-payment of dues to governments.

We commend Congo and Rwanda for introducing laws on supply chain due diligence, and recognise that they are frontrunners in this respect. But without proper enforcement these laws mean little. Congo and Rwanda must ensure that the companies that do not respect their laws are held to account. As a minimum, the governments should know the number of companies operating in the minerals supply chain in their jurisdiction, the number of these companies that are reporting on their due diligence efforts and whether they are doing so in sufficient detail. All this should be available publically and in one place.

The Ugandan government is failing on its commitment to ensure that companies operating in its minerals sector do so responsibly. In 2010 it signed the Lusaka Declaration of the International Conference on the Great Lakes Region

(ICGLR) Special Summit to Fight Illegal Exploitation of Natural Resources in the Great Lakes region. In doing so, it formally endorsed the OECD Guidance and committed to make supply chain due diligence a requirement in its jurisdiction.<sup>82</sup> Yet seven years later, this is still not the case. The government must ensure that mining, trading and refining companies conduct due diligence in line with the OECD Guidance, and that these companies can evidence tangible reforms in the way they govern their supply chains.

**“Illegal exploitation of natural resources constitutes a violation of States’ right of permanent sovereignty over their natural resources, territorial integrity and represents a serious source of insecurity” – Lusaka Declaration, December 2010**

## CONCLUSION

Supply chain due diligence alone will not end conflict in eastern Congo, or prevent corruption and human rights abuse here or elsewhere. But it is an important step towards making sure that companies’ mineral supply chains are not conduits for such harms and instead foster local economic development and sustainable livelihoods. Detailed public reporting by companies on how they have identified and addressed supply chain risks over time helps to create and demonstrate progress towards this end – and is the honest and responsible way to do business. Only when companies and sectors work together to make their supply chains more transparent can they ask informed questions and identify warning signs that might warrant further investigation and action. Ignoring or failing to assess and address such problems severely reduces the likelihood of any real change to sourcing behaviour and the lives of those impacted.

## RECOMMENDATIONS

### Global Witness calls for:

*All companies exporting 3TG from eastern Congo, Rwanda and Uganda to*

- Conduct supply chain due diligence in line with the OECD Guidance, including publishing reports that detail the specific risks encountered and steps the company took to mitigate and follow-up on these on an annual basis. In Congo and Rwanda, this is a legal requirement.
- Make full use of the diverse sources of secondary information available and complement this with the information generated through their own on-the-ground spot checks on their supply chains.

*All companies sourcing or trading minerals from the African Great Lakes region to*

- Conduct supply chain due diligence in line with the OECD Guidance, including publishing reports that detail the specific risks encountered and steps the company took to mitigate and follow-up on these on an annual basis.
- Demand quality reports from their suppliers on an annual basis, engage and follow-up on the risks identified, where appropriate, and report on these in their own annual due diligence reports.

*The iTSCi responsible sourcing scheme to*

- Ensure they do not remove, or advise companies to remove, non-sensitive information on risk from their public due diligence reports.
- Treat poor quality risk reporting as a red flag and log this as an incident to be followed-up on.
- Treat the involvement of a politically-exposed person (PEP) in company ownership and/or management as a red flag, i.e. a corruption and/or direct or indirect link to conflict risk.
- Communicate clearly that information on company ownership and potential conflicts of interest exists in its members’ database, which should also be made easily searchable.

*The governments of the Democratic Republic of Congo, Rwanda and Uganda to*

- Uphold their commitment made in the 2010 Lusaka Declaration to call upon companies sourcing minerals from the Great Lakes region to implement supply chain due diligence in line with the OECD Guidance, including by:
  - > Monitoring the companies in their jurisdiction and evaluating at least a sample of the due diligence reports published on an annual basis.
  - > Sanctioning companies that fail to comply with their laws on due diligence.
  - > Actively promoting companies' observance of the OECD Guidance, informing companies of what the law requires of them and encouraging their participation in OECD meetings, workshops and training on responsible mineral supply chains.
- Host an easy-to-find, easy-to-search, up-to-date and complete database of companies' annual due diligence reports in their jurisdiction.
- Ensure that civil society is able to collect information and provide independent monitoring and oversight of mineral supply chains free from threats and intimidation.<sup>83</sup>

*The government of Uganda, in particular, to*

- Respect its 2010 commitment to ensure that companies operating in, or from, its jurisdiction implement the OECD Guidance in full through:
  - > Introducing a law on supply chain due diligence as soon as possible, as in Congo and Rwanda. This law must not exclude the country's gold sector.
  - > Increasing knowledge and understanding of the OECD Guidance across government departments, companies and domestic NGOs in the 3T and gold sectors.

*International donors to*

- Strongly encourage the states they support to uphold the supply chain due diligence law in their jurisdictions, including the public reporting requirement.
- Support civil society organisations to contribute to the independent monitoring and oversight of mineral supply chains.

## **ANNEXES**

1. Methodology
2. Table: Which companies exported 3TG in 2015 and did they publish a due diligence report?
3. What the OECD Guidance says about reporting on risk
4. Rutongo and Eurotrade's risk assessments not published by iTSCI
5. iTSCI's primary written response to Global Witness

## **ANNEX 1: METHODOLOGY**

This report builds on Global Witness' 15 years of work towards responsible mineral sourcing in eastern Congo. It is an analysis of the level and quality of public supply chain due diligence reporting of companies that officially exported tin, tantalum, tungsten and gold ("3TG") from eastern Congo, Rwanda and Uganda in 2015.

By "public", we mean available on the internet. This is a desk-based study, so we have not visited each company's office to verify whether or not a 2015 due diligence report is available there. All companies cited in the main body of the report have been contacted for comment, where we were able to find contact details.

The year 2015 was selected because, when this research began, this was the latest year for which reports were available. The analysis focuses on eastern Congo, Uganda and Rwanda. All three countries signed the 'Lusaka Declaration of the International Conference on the Great Lakes Region (ICGLR) Special Summit to Fight Illegal Exploitation of Natural Resources in the Great Lakes region' in 2010 and played a role in drafting the 'OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas' (OECD Guidance). A fuller analysis would include all nine other ICGLR member states. We focused on 3TG because the due diligence laws in Congo and Rwanda apply to these four minerals. They were also the four minerals the OECD initially focused on when drafting the supplements to its guidance (the OECD Guidance itself applies to any mineral supply chain). We focused on exporters because these companies sit at the intersection between the country in question and international markets.

We began by approaching the relevant mining authorities to obtain their official list of companies that exported 3TG from their jurisdiction in 2015. For eastern Congo, this was the provincial Minister of Mines and/or the head of the provincial mining division for each of the five eastern provinces (North Kivu, South Kivu, Maniema, Ituri and Tanganyika). For Rwanda, this was the Rwanda Natural Resources Authority (RNRA).<sup>84</sup> For Uganda, this was the Ministry of Energy and Mineral Development's Inspections and Monitoring Department.

We obtained the requested information for all but Ituri, whose officials provided us with a list for 2016 instead of 2015.<sup>85</sup> This information was received in a variety of forms: over the phone, via text message or Whatsapp, via email and/or in an official annual report (North Kivu). For Congo, some information on companies operating is also available via its Ministry of Mines' website; however, we have not used this as it is not dated.<sup>86</sup>

In addition to the above, for South Kivu we obtained an excerpt of the provincial mining division's January-September 2015 report on minerals exports.<sup>87</sup> This report detailed gold exports from eight companies that did not appear on the list provided by the provincial minister of mines. We wrote to the provincial mines minister in South Kivu to ask why this discrepancy occurred, but did not receive a response. As it is an official report on exports, we included these companies in our sample. We were also able to cross-check some of the company names using our own field research notes from 2015.

For all other jurisdictions, we used only the official lists provided.

These lists formed the basis of our sample. We have not questioned their validity for methodological purposes.<sup>88</sup> However, discrepancies have arisen through the course of the research, indicating that they are not entirely accurate. These include differences between the official lists provided and: (1) the companies listed as iTSCi members, which feature in their incident log for 2015 – indicating they were indeed operating; (2) the list on the Congolese Ministry of Mines website;<sup>89</sup> and (3) the operations of, for example, African Gold Refinery in Uganda, which did not appear on the list of exporters provided by the Ministry of Energy and Mineral Development,<sup>90</sup> among other things.

To find the 2015 due diligence report for each company listed, we checked the iTSCi website,<sup>91</sup> the company's website (if one exists), the ICGLR website,<sup>92</sup> the national ministry of mines' website for each jurisdiction and used internet searches. We found some (but by no means all) reports on the Congolese Ministry of Mines' website.<sup>93</sup> By "2015 report", we mean the reporting period that spans the majority of that year.<sup>94</sup> We may have missed reports that were published elsewhere and that did not come up

in an internet search. The cut-off date for this research was 1 February 2017. Since this date, we are aware that more 2015 reports have been uploaded onto both the Congolese ministry of mines' and iTSCI's websites, but these fall outside the scope of this study.

Using 2015 reports from the provincial mining authorities of North and South Kivu (we didn't find such reports for the other three Congolese provinces, Rwanda or Uganda), we were further able to identify six international companies that traded minerals from these two provinces in the same year. We applied the same methodology outlined above to search for their due diligence reports.

We evaluated all the companies' 2015 due diligence reports based on what they tell us about how they are identifying and addressing risks in their supply chain, as per the OECD Guidance (see section 1 and annex 3). If the exporting company was listed in iTSCI's public database of 2015 incident reports,<sup>95</sup> we were able to compare the incidents logged there against the incidents or risks detailed in its due diligence report. This is a desk-based study and we have not verified what the companies' wrote in their due diligence reports with field research.

**ANNEX 2:  
WHICH COMPANIES EXPORTED 3TG IN 2015  
AND DID THEY PUBLISH A DUE DILIGENCE REPORT?**

	<b>Name of exporting company in 2015</b>	<b>Did the company publish a 2015 due diligence report?*</b>
<b>Congo</b>	Societe Miniere de Bisunzu Sarl (SMB)	Y
	Metachem Sarl	Y
	Huaying Sarl	N
	Congo Minerals & Metals (CMM) Sarl	Y
	Amur	Y
	Bakulikira Nguma	Y
	Glory Minerals (Glory M)	N
	Willem Minerals Company Sarl (WMC)	Y
	Societe General de Commerce Sarl (SOGECOM)	Y
	Rica	Y
	Namukaya	N
	Comptoir d'achat et de vente d'or Sarl (Cavichi)	Y
	Golden Gold	N
	Kasereka	N
	Alpha Gold	N
	Delta Gold	N
	Etoile d'Orient (ETO)	N
	Maniema Mining Company (MMC)	N
	Namoya Mining (Banro)**	N
	Emeco	N
	Sakima	N
	Britcon	Y
	Centre professionnel de developpement Sprl (CEPRODEV)	Y
	Nordkat Group Sarl	N
	Sino Katanga Tin Sprl (SKT)	N
	Mining Mineral Resources Sprl (MMR)	Y
	Congo Progressive Company Sprl (COPROCO)	Y
	SOGEAMI	N
Muungano na Maendeleo (MnM)	N	
<b>Rwanda</b>	African Panther Resources Rwanda Ltd (APRRW)	Y
	Blancomet	N
	Boss Mining Solution Ltd	Y
	Eurotrade International Sarl (ETI)	Y
	FECOMIRWA	N
	Gisande Trading Ltd	N

	Name of exporting company in 2015	Did the company publish a 2015 due diligence report?*
<b>Rwanda continued</b>	Minerals Supply Africa Ltd (MSA)	Y
	New Bugarama Mining Company Ltd (NBMC)	Y
	Noviva Ltd	N
	Pella Rwanda Resources Ltd	N
	Phoenix Metal Ltd	Y
	Rutongo Mines Ltd	Y
	Rwanda Pure Water Ltd (RPW)	N
	Rwandan Mineral Resources Ltd (RMR)	Y
	Societe de Recherche, Extraction, Achat et Vente des Mineraiis et Carrieres Ltd (SEAVMC)	Y
	Sunrise Metal Company Ltd	Y
	Tantalium Minerals Trading Ltd (TMT)	Y
	Tawotin Ltd	Y
	Tinta Mining	N
	Trading Services Logistics Ltd (TSL)	Y
	TWC Minerals Ltd (TWC)	Y
	Waycor Ltd	Y
Wolfram Mining and Processing Ltd (WMP)	Y	
<b>Uganda</b>	3T Mining (U) Ltd	N
	Adamawa Investment (U) Ltd	N
	African Panther Resources (U) Ltd	N
	Dahab for Trade Ltd	N
	Greenstone Resources Ltd	N
	Hajj Fahad Ibrahim Lugobe	N
	Kagera Mining (U) Ltd	N
	Ki3r Minerals Ltd	N
	Krone - Avan JV	N
	Krone (U) Ltd	N
	Nikki Rush Mining Group Ltd	N
	York Stones (U) Ltd	N
	Ys Gold Stones Uganda Ltd	N

\*Accurate as of 1 February 2017. See full methodology in annexe 1, including for the sources of the company names and the online locations of their due diligence reports. Some 2015 due diligence reports have been published on the Congolese Ministry of Mines' website or the iTSCi website since 1 February 2017 -- these fall outside the scope of this report. Global Witness asked iTSCi whether any 2015 due diligence reports were submitted to iTSCi but not published on the iTSCi website by 1 February 2017. In response, iTSCi wrote "Yes [...] provision of an archive for member company reports to enable the public to access the information is an added service beyond the recommendation for the industry mechanism to collate and process reports (on a confidential basis). Uploading Step 5 reports is a lesser priority than other more time critical risk reporting. Following the [...] budget and staffing cuts in 2015-2016 due to the extreme adverse market conditions of which you will be aware, as well as sickness of the responsible person for Step 5 reports at ITRI, there was some delay between receipt and uploading."

\*\*Banro's subsidiary Namoya was listed as a 2015 exporting company by Maniema's provincial mining authorities and is therefore in our sample of companies. However, according to Banro's website, Namoya only entered commercial production on 1 January 2016. Banro has a second subsidiary operating in South Kivu province, Twangiza Mining. Twangiza Mining did not feature on the list of 2015 exporting companies for South Kivu and is therefore not in our sample of companies (see full methodology in annex I). According to Banro's website, Twangiza Mining has been active in South Kivu since October 2011 and commenced commercial production in September 2012. See Banro's website: <https://www.banro.com/>.

### ANNEX 3: WHAT THE OECD GUIDANCE SAYS ABOUT REPORTING ON RISK

The OECD Guidance outlines a *risk-based* approach to supply chain due diligence.

Steps 2 and 3 of the OECD Guidance set out in detail the steps companies should take to identify, assess and respond to risks in their supply chain. Step 5 of the OECD Guidance – explained in varying levels of detail in annex 1, the ‘Supplement on Tin, Tantalum and Tungsten’ (3T supplement) and the ‘Supplement on Gold’ (gold supplement) – provides guidance to companies on what should be included in their annual due diligence reports.

While each of these steps are explained separately, the OECD Guidance should be read as a whole with its overall objectives kept in mind. Each step builds on those that precede it. Due diligence is not a box-ticking exercise, but a proactive, reactive and iterative process.

In this annex, we focus on what the OECD says specifically about reporting on risk. For more information on reporting on company management systems, please refer directly to the OECD Guidance. For more information on Global Witness’ approach to how risk reporting fits within the text and overall objectives of the OECD Guidance, see section 1, ‘supply chain due diligence and public reporting.’

**Annex 1**, which applies to all mineral supply chains, states “Companies should publicly report on their supply chain due diligence policies *and practices*” (emphasis added) – so all practical steps they have taken to identify, assess and respond to risks in their supply chain. Companies must report on what they have done, not just what they have committed to doing.

**The 3T supplement** provides more detailed guidance, for example:

➤ Step 5 A.1.2 (directed at all upstream companies, i.e. the companies referenced in this report) says companies should, among other things, “*publish the risk assessment* [described in Step 2] with due regard taken of business confidentiality and other competitive concerns” – this must be detailed enough for it to be used as a basis for the risk mitigation outlined in Step 3. Companies should also “outline the methodology, practices *and information yielded* by the on-the-ground assessment” (emphasis added);

➤ Step 5 A.1.3 says companies should, among other things, “*describe the steps taken to manage risks*” and “*disclose the efforts made by the company to monitor and track performance*” (Step 3 B.2.b.i also says companies should publish their risk management plan) (emphasis added);

➤ A “guiding note” for companies’ risk assessments is provided in the appendix and recommends, among other things, the establishment of a competent and independent on-the-ground assessment team to enable the company to take an evidence-based approach. The guiding note also provides more examples of “the substance of” risks, for example (in addition to those listed in annex II): “human rights, international humanitarian law, corruption, financial crime, conflict and financing parties to a conflict, transparency.”

Finally, building on the 3T supplement, **the gold supplement** provides the most detailed guidance on what and how companies should report on risk, for example (without repeating the above):

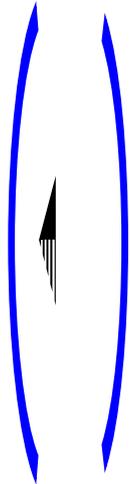
➤ Step 5 A.1.2 says companies should, among other things, “explain how the company identified red flag operations or red flags in their supply chain [...]; *describe the red flags identified* [...]; [... and] *disclose the actual or potential risks identified*” (emphasis added);

➤ Step 5 A.1.3 says companies should, among other things, “describe the *steps taken to manage risks* [...]; disclose the efforts made by the company to monitor and track performance for risk mitigation and *all the instances and results of follow-up after 6 months* to evaluate significant and measurable improvement.”

➤ While there is no “guiding note” in the gold supplement, Step 2 in particular provides extensive examples of the types of risk the companies should be looking out for.

Each of the three sections cited above progressively expand on what is expected from companies in terms of risk reporting. Companies wishing to source minerals to the highest standard should be following the most detailed risk reporting rules, regardless of the mineral in question. Global Witness has identified that a handful of companies in Congo and Rwanda’s 3T sector are already doing so.

**ANNEX 4:  
EUROTRADE AND RUTONGO'S 2015 RISK ASSESSMENTS**



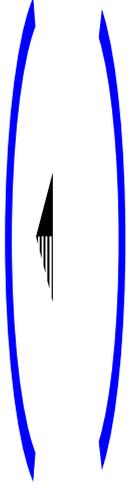
# EUROTRADE INTERNATIONAL S.a.r.l

Procurement and Mining of Minerals, Precious Metals & Rare Earth

## Workplace Risk assessment and Control (WRAC) Template

<b>Project No:</b> WR04	<b>Project Title:</b> Compliance to OECD Guidelines		<b>Page:</b> 1 of 6
<b>Operation Description:</b> OECD produced certain guidelines to be followed by mining and mineral trading companies to be followed to combat the use of mineral to finance conflict especially in the Great Lakes region of Africa. This risk assessment defines the current compliance of Nyakabingo Mine to these guidelines.	<b>Relevant Documents:</b> OECD Guidelines, iTSCI Risk Assessment document dated Dec 2010 - Aug 2011		<b>Date:</b> October 2015
	<b>Team Leader:</b> [REDACTED]		<b>Relevant SOP:</b>
<b>Team Members:</b> [REDACTED]	<b>Recorded By:</b> [REDACTED]		

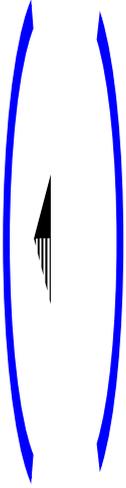
No.	A Step in operation/issue	B Unwanted event or activity	C Current Controls	D Likelihood	E Consequence	F Risk Rating	G
1.	Capacity of the industry. Limited formalization of the mine	a) Accidents and poor hygiene b) Use of child labour	Good safety orientation with some focus on health Regular monitoring,	1	3	6	Training & supervision good. SA mining standards adopted. Good controls HR structure, sign-



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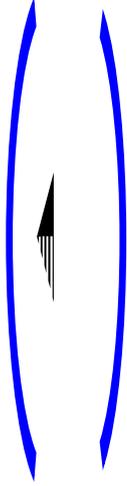
		written instructions, sign- on controls				on procedure with National ID, daily time and attendance monitoring in place.
	c) Illegal entry of mineral	ITRI tagging system in place.	1	3	6	ID for miners, linked miners to dedicated working places. Company payment major deterrent.
	d) Lack of rule of law	Regular meetings and training sessions held. Compact, well controlled section	2	4	14	Introduce SA mining standards, improved supervision in place.
2.	Knowledge of suppliers is still developing	Risk of entry of conflict minerals into the system; Abuses; Conflict.	1	4	10	Pay structures too low. Continue training, improve security.
3.	Child labour	Unintentional use of child labour	1	3	6	Sign-on procedure with National ID,



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Procurement and Mining of Minerals, Precious Metals & Rare Earth

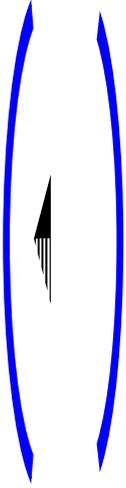
4.	Smuggling networks	a) Continued smuggling of DRC minerals into Rwanda  b) Continued removal/theft of company mineral	contractors (instructions), sign-on controls  ITRI tagging system in place, payment structures a deterrent, large on-mine security presence. Security in place. Compact, controlled section. Access restricted	1  1	4  4	10  10	daily monitoring of all labour, training and coaching.  Mine ID's for miners, link miners to dedicated working places. Pay structures too low.  Thieving from lower reaches of river. Mine site tightly controlled.
5.	Lack of clarity of tax requirements	Non - payment of taxes	Tax payments by sub-contractors and miners monitored by mine staff. Consultancy service provided by mine.	1	4	10	Maintain monitoring role with tax payments, consultant to continuously provide assistance
6.	Indirect support to armed forces	Companies being accused of corrupting armed forces in the case of local social	National defense force stationed on site. Police and RNDF involved with	1	4	10	Maintain the status quo. All bona fide government institutions



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Procurement and Mining of Minerals, Precious Metals & Rare Earth

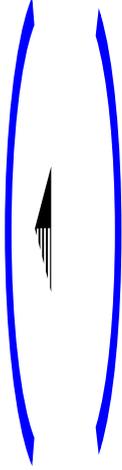
7.	Traceability system	projects All miners cannot get their minerals tagged and are then excluded from their normal livelihoods	crime prevention Restrictions are applicable to size of controlled mining area and persons with criminal records. All miners within the system have their minerals tagged.	2	3	9	Maintain the status quo regarding the complement of miners
8.	Coverage of the system	a) Entry of smuggled materials b) Materials exiting the system and finding their way into other consumers hands	All production from source to plant is monitored daily by mine and GMD staff. Payment structures a deterrent. Theft on property low. Theft from lower reaches of river ongoing.	1	3	6	Mine payment structure a major deterrent. Compact, tightly controlled section. Maintain large security presence on the property.



# EUROTRADE INTERNATIONAL S.a.r.l

Procurement and Mining of Minerals, Precious Metals & Rare Earth

9.	Timelines of logbook registration in the database	Delays in sending logbooks	Logbooks are sent to GMD offices weekly. Feedback to mine is still poor.	2	3	9	Regular timekeeping problems still arise.
10.	Discrepancies in the weighing machines (scales)	Infiltration of illegal minerals	Calibration is done according to schedule RBS.	2	3	9	A regular calibration service introduced.
11.	Control over the use of tags	a) Tags are sold or transferred  b) Possibility of circulation of tags and tag sales	Tags controlled by GMD, stored in double-lock container Mine staff do regular checks.  Timeframes are recorded for use of tags after issuing. Human element could be very influential	2	4	14	The human element will always pose a risk. Tagging done centrally. Serious consideration be given to introduce electronic tagging
				2	4	14	As per above. The risk can only be reduced by technology



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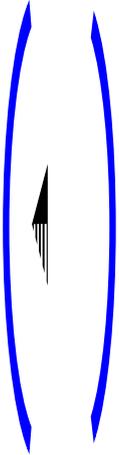
Procurement and Mining of Minerals, Precious Metals & Rare Earth

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## Remarks

Nyakabingo Mine is a compact, well controlled operation and with its steep location, accesses to and from the site offers little leeway for uncontrolled movement of unwanted elements. The mining method employed by the mine is ore extraction from vein development, meaning that ore is recovered through the process of development only and not by any bulk mining methods. This method of mining allows for safe working conditions.

The human element involved in the tagging system still poses one of the greatest risks to the traceability process with staff absenteeism and arriving late at work, still happening.



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Procurement and Mining of Minerals, Precious Metals & Rare Earth

		Event Risk Rating/ Priority (1)				
Consequence		1	2	3	4	5
Likelihood		Minor	Low	Medium	High	Major
5 Almost Certain	Medium (11)	Medium (16)	Significant (20)	High (23)	High (25)	
4 Likely	Medium (7)	Medium (12)	Significant (17)	High (21)	High (24)	
3 Possible	Low (4)	Medium (8)	Significant (13)	Significant (18)	High (22)	
2 Unlikely	Low (2)	Low (5)	Medium (9)	Significant (14)	Significant (19)	
1 Rare	Low (1)	Low (3)	Medium (6)	Medium (10)	Significant (15)	

(1) Risk rating does not indicate risk acceptability; all risks should be reduced to ALARP (as low as reasonably practicable).

## Workplace Risk assessment and Control (WRAC) Template

<b>Project No:</b> WR03		<b>Project Title:</b> Compliance to OECD Guidelines					<b>Page:</b> 1 of 6	
<b>Operation Description:</b> OECD produced certain guidelines to be followed by mining and mineral trading companies to be followed to combat the use of mineral to finance conflict especially in the Great Lakes region of Africa. This risk assessment defines the current compliance of Rutonggo Mines to these guidelines.		<b>Relevant Documents:</b> OECD Guidelines, iTCSI Risk Assessment document dated Dec 2010 - Aug 2011					<b>Date:</b> October 2015  <b>Relevant SOP:</b>	
		<b>Team Leader:</b> ██████████		<b>Team Members:</b>			<b>Recorded By:</b> ██████████	
No.	A Step in operation/issue	B Unwanted event or activity	C Current Controls	D Likelihood	E Consequence	F Risk Rating	G	
1.	Capacity of the industry. Limited formalization of the mine	a) Accidents and poor hygiene  b) Use of child labour	Limited safety orientation with no real focus on health  Regular monitoring, written instructions, sign- on controls	3	4	17	Training - SA mining standards. Large strides made, artisanal mining still a challenge.  HR structure, sign-on procedure with National ID, daily time and attendance monitoring in place.	
		c) Degrading the	Sluicing still	5	3	20	Sluicing cannot be	

	environment	prevalent, EIA in progress	stopped now. Environmental Management Plan completed Mine ID for miners, link miners to dedicated working places being done. Company payment. Introduce SA mining standards, improved supervision in place.				
2.	Knowledge of suppliers is still developing	d) Illegal entry of mineral e) Lack of rule of law	1 2	3 4	6 14	6 6	Pay structures too low. Continue training, improve security. Sign-on procedure with National ID, daily monitoring of all labour, training and coaching.
3.	Child labour	Risk of entry of conflict minerals into the system; Abuses; Conflict. Unintentional use of child labour	1 1	3 3	6 6	6 6	Mine ID's for miners, link miners to dedicated working places. Pay structures
4.	Smuggling networks	a) Continued smuggling of DRC minerals into Rwanda	1	4	10	10	

5.	Lack of clarity of tax requirements	b)Continued removal/theft of company mineral	security presence. Security, police and defense force	5	4	23	too low. Availability of tags and illegal traders are prevalent. Full military intervention required
6.	Indirect support to armed forces	Non - payment of taxes  Companies being accused of corrupting armed forces in the case of local social projects	Tax payments by sub-contractors and miners monitored by mine staff. Consultancy service provided by mine.  National explosives store on Rutongo. National defence force on site as protection. Police and RNDF involved with crime prevention	2	4	14	Maintain monitoring role wrt. tax payments, consultant to continuously provide assistance
7.	Traceability system	All miners cannot get their minerals tagged and are then excluded from their normal livelihoods	Restrictions are applicable to size of controlled mining area and persons with criminal records. All miners within the system have their	1	3	10	Maintain the status quo. All bona fide government institutions
7.	Traceability system	All miners cannot get their minerals tagged and are then excluded from their normal livelihoods	Restrictions are applicable to size of controlled mining area and persons with criminal records. All miners within the system have their	1	6	6	Maintain the status quo regarding the complement of miners

8.	Coverage of the system	a) Entry of smuggled materials b) Materials exiting the system and finding their way into other consumers hands	minerals tagged. All production from source to plant is monitored daily by mine and GMD staff. Payment structures a deterrent. Theft on property still very high despite high security presence.	1 5	3 4	6 23	Mine payment structure a major deterrent. Illegal trade offering Rwf. 6000/ kg. Tags available through other "small mines" Maintain large security presence incl. RNDF. GMD to review issuing of mining concessions.
9.	Timelines of logbook registration in the database	Delays in sending logbooks	Logbooks are sent to GMD offices weekly. Feedback to mine is still poor.	2	3	9	Despite changes made to assist GMD, regular problems still arise.
10.	Discrepancies in the weighing machines (scales)	Infiltration of illegal minerals	Calibration is done according to schedule RBS.	2	3	9	A regular calibration service introduced.
11.	Control over the use of tags	a) Tags are sold or transferred	Tags controlled by GMD, stored in double-lock container	2	5	19	The human element will always pose a risk. Centralised



The human element involved in the tagging system still poses one of the greatest risks to the traceability process and unless this aspect can be adequately addressed, the risk will remain. There is little doubt that the use of electronic tagging will by far surpass the current system and should be vigorously pursued.

As with previous reporting, the above issues remain.

		Event Risk Rating/ Priority (1)				
		1	2	3	4	5
Consequence Likelihood	5	Minor	Low	Medium	High	Major
	Almost Certain	Medium (11)	Significant (16)	Significant (20)	High (23)	High (25)
4 Likely	Medium (7)	Medium (12)	Significant (17)	High (21)	High (24)	
3 Possible	Low (4)	Medium (8)	Significant (13)	Significant (18)	High (22)	
2 Unlikely	Low (2)	Low (5)	Medium (9)	Significant (14)	Significant (19)	
1 Rare	Low (1)	Low (3)	Medium (6)	Medium (10)	Significant (15)	

(1) Risk rating does not indicate risk acceptability; all risks should be reduced to ALARP (as low as reasonably practicable).

## ANNEX 5: ITSCI'S PRIMARY WRITTEN RESPONSE TO GLOBAL WITNESS



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19<sup>th</sup> April 2017

Dear

Thank you for your letter requesting clarification of various points relating to company Step 5 annual reporting. We are glad that to have the opportunity to provide comment prior to completion of your research and publication and hope that this will contribute to accuracy in the upcoming report. We are also very pleased that you have been able to make use of information which iTSCI makes freely available on the website and look forward to this being described in a positive way in your publications in order to encourage others to also refer to that source.

Before addressing many of your specific questions we would like to recap on the background to this discussion to enhance understanding of the current status. These points also address your introductory remarks;

- iTSCI is a joint industry mechanism for traceability and due diligence designed to co-operate with all stakeholders, including civil society and government, to generate the best available credible information in a harmonised format for use by industry. As recognized by the OECD, joint work increases the efficiency and effectiveness of due diligence and benefits all. iTSCI does not produce guarantees or certificates of 'conflict-free' materials, but does provide information on risk and the extent of risk management by member companies.
- The DDG acknowledges that joint industry initiatives and institutionalized mechanisms established at industry request can contribute to Steps 1, 2, 3 and 4 when a company confirms that this takes into account the circumstances specific to that company. The role of companies is made clear to all iTSCI members, for example, the signature page of the iTSCI membership application includes the statement *"We recognise that our company will retain individual responsibility for due diligence including to ensure that all joint work by iTSCI duly takes into consideration circumstances specific to our individual company."*
- Step 5 does not make mention of a role for joint industry initiatives or mechanisms except in the footnote as a potential recipient to collect and process annual company reports. In the early stages of implementation of the DDG there was much debate about company responsibilities and in particular their individual responsibility to publish annual reports. The involvement of iTSCI in this aspect seemed to be discouraged by stakeholders, including Global Witness. Only when it became evident that reports were not being published did iTSCI agree to work on encouraging member companies to publish reports, and, as promised in the November 2014 OECD meeting in Kinshasa, start to open incident reports on those members who did not do so.
- Following that time there has been significant progress in Step 5 reporting as many more iTSCI member companies are preparing and releasing reports, and all are aware of the recommendation to publish, as well as possible suggested content. Nevertheless we agree with the first of your points that companies remain confused about the differences between supply chain policies, due diligence plans, risk assessment and reports. This arises from the complexity of the DDG itself which is not ideally structured for smaller companies, and is why a joint industry mechanism will remain important for some time.

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- While we do try to guide companies in their responsibilities we are careful not to allow them to rely on iTSCi and no longer issue templates for assessments or reports as we did in the past. We have found from experience that requesting a company to write its own text provides a better guide to their understanding of DD and how they can then be further assisted to progress towards more independent actions. As a result, the first ever Step 5 reports from 2015, being the first available from 3T upstream companies, should not be expected to be of good quality, nor reflect the current situation, which has continued to progress.
- The near-final draft of the OECD DDG was agreed the evening before the forum in Nairobi in September 2010. The main point of discussion was a final roadblock on the extent of information envisaged to be recommended in public reporting under Step 5. In addition to Global Witness and civil society representatives, both ITRI (Kay Nimmo) and T.I.C., as well as a number of company representatives were present and explained the various business confidentiality and competitive concerns that are acknowledged in the DDG, including footnote 34. We would like to reassure you that we have a very good understanding of the original intent of the text of Step 5.

#### *Competition/Anti-trust law and other laws*

- While an obvious expectation, the DDG recommends in Step 2 that companies abide by applicable laws. Member companies and operators of iTSCi must also abide by relevant laws, including but not limited to, data protection and competition. Actions recommended by voluntary guidance such as from the OECD cannot override the need to maintain established law.
- ITRI, as the Secretariat of the iTSCi Programme, not only has obligations regarding proper management of information and data under our agreements with member companies, contractors and governments but is also the data controller under the UK Data Protection Act (DPA), set-up in regard to the EU Data Protection Directive. We must ensure that personal details such as contact information are not used for any other purpose than that which that person has provided permission. The DPA is highly complex and having further reviewed the details more recently we have determined that information on individuals is best redacted from external reports since seeking permissions would be impractical.
- With regard to competition the following is within the iTSCi membership agreement which all companies must sign; "The Members expressly undertake to comply with applicable rules on competition law, in particular but not limited to Articles 81 and 82 of the EC Treaty, as well as any applicable national laws." Competition law is also commonly referred to as anti-trust law, particularly in the US. As an example you may refer to the T.I.C. Antitrust Compliance Policy available here; <http://www.tanb.org/view/antitrust-compliance-policy> and explanation such as "More recently antitrust enforcers have considered that the mere exchange of competitively sensitive information between competitors can amount to a cartel. This covers information on prices, quantities, markets and commercial strategies."
- Competition law impacts discussions and agreements made between companies at a horizontal level (the same level in a supply chain) and at the vertical level (up and down the supply chain). The exchange of information of the kind mentioned in the DDG on suppliers, volumes, transport routes, capacities, stock levels and many others all have the potential to influence price and competition. Different types of data may be more or less critical for competition depending on the type or market and its participants. For example, tin is publicly traded and the standard price is known, while tantalum is not a commodity and the price is not publicly known. In the former case, competition may depend on a good relationship with a supplier, while in the later, knowledge of trading volumes may be more critical. There is no hard and fast rule about what information may or may not be exchanged, yet all parties have an obligation to ensure the laws are not breached. Disclosure of information to the joint industry mechanism as recognized in footnote 34 allows monitoring of activities of companies without breach of competition laws.
- In addition to competition laws, companies must consider commercial factors in any disclosures. As implied above, the entire business of smelters and mineral traders depends on developing contacts with suppliers, establishing good commercial terms, including for transportation, and protecting those contacts from competitors. The relationships between company's suppliers and clients are not freely

exchanged. This is critical and recognized as such in the DDG footnote 34. Again, disclosure of information to the joint industry mechanism allows monitoring of activities of companies and highlighting risks and risk resolution without breach of commercial concerns.

- The recent conclusion of the court case on the Dodd Frank disclosure requirement for 'not conflict free' product as compelled speech with potential to self-incriminate has also shown that disclosure of specific risks relating to specific suppliers in specific circumstances could be subject to various other legal questions.
- The DDG in the initial Steps envisages exchange of information solely between companies. As explained above, that type of exchange of business information is not normally aligned with competition law or commercial practice and use of an industry mechanism can act as an alternative. The public disclosure envisaged in Step 5 must be at a level that does not breach the above expectations, understanding that competitors can and will use such public reports for their own beneficial purposes.

#### **Question 1 – general comments**

In addition to the above points, we would highly recommend that you specify in your report the exact basis of the scope as the 'companies that exported' in terms of official records, and the source of those official records. There may be possible errors and discrepancies in official records which will need to be clarified as a result of your reporting and clear references would assist this.

Your letter makes the statement that "our initial analysis shows that very few came close to meeting the standard laid out in the OECD Guidance." As you will know, the OECD DDG is not a standards document in the manner of for example an ISO document, it is guidance recommending a flexible approach in order to take into account company size and circumstance. In locations where the DDG is not referred to in law it remains a set of recommendations for voluntary due diligence. We cannot agree that the OECD sets out a clearly defined or prescriptive 'standard', nor that Global Witness can make a unilateral judgement on whether company reports do or don't meet the 'standard'.

In regard to your 3 comments on the company reports;

- (1) *most companies write about what they will do in the future rather than about what they have done in the reporting period (i.e. most reports published are a due diligence policy or plan, not a due diligence report);* Yes we agree with this observation and continue to provide guidance and suggestions to companies so that they may better understand the differences between various documentation types, bearing in mind this level of formal business is not necessarily part of established business culture in the region and significant step by step change is necessary for progress. Nevertheless, you should note that funding restrictions, especially in the 2015-2016 period, have reduced our training activities for companies to a minimum.
- (2) *few companies report any detail on the risks encountered during the reporting period or how these were addressed and followed-up on;* As explained above Step 5 of the DDG recognises the necessary limitations on disclosure to public (and therefore also competitors). Details of specific risks at suppliers cannot be published by purchasers as by implication this would also disclose confidential and commercial information on supplier relationships (recognized in footnote 34). All incidents reported by iTSCi are in any case available publicly for review by external parties, who may also follow the actions taken to mitigate those risks and evaluate what was successful, achieved or not. Knowing links between suppliers is not an essential prerequisite to understand risks and mitigation that has occurred.

We do not agree that the text of Step 5 suggests details of risks encountered should be disclosed to the public. For example, A.1.1 discusses general operational systems and plans including how disclosure is achieved to other actors; A.1.2 mentions publication of a general risk assessment omitting confidential and competitive information; A.1.3 describes the general strategy of a company to manage risks including through the involvement of stakeholders.

- (3) *most companies show an over-reliance on iTSCi for their due diligence, rather than taking responsibility for due diligence themselves and using iTSCi as an additional tool to help them do so.* We do not agree with your statement. Companies are advised at every opportunity to make use of all information available to them in their own evaluations. iTSCi member audits examine the question of whether and how well the

company uses information provided by iTSCI, as well as any other possibly available information. Nevertheless, the need for, and value of, assistance and encouragement of companies by the iTSCI industry mechanism to take their own responsibilities remains clear and companies clearly appreciate the useful tools that are available from iTSCI.

**2. Ultimate responsibility for due diligence:**

*Please can you confirm that iTSCI's position is that "the ultimate responsibility for due diligence lies with the company itself" and therefore that companies must not wholly outsource their due diligence to third party schemes, such as iTSCI?*

Yes that is our approach, and the approach accepted and adopted by member companies. Please refer to information above.

*Would you therefore agree that companies must conduct their own due diligence and have systems in place to ensure that incidents or risks can be reported and dealt with without total reliance on a third party, such as iTSCI?*

Yes, company systems, processes for evaluation of information, examples of use of information, communications with employees, suppliers and other stakeholders on policies, as well as other actions are the responsibility of companies. The company actions on all of these points are evaluated at various stages in the iTSCI systems, including during the company audits. Please refer for example to typical audit statements which report for example;

"No evidence was found that the company has directly or indirectly supported non-state armed groups through illegal taxation associated with trade of 3T minerals. All minerals traded are from iTSCI managed locations and suppliers. The company **partly** evaluates iTSCI information on risk assessment and management, and **acts** on this according to its individual circumstances and strategy. The company has also performed **supplemental** risk assessment and management. " CMM audit July 2016.

*Do you also agree that the international buyers of these minerals cannot rely on upstream companies' membership to iTSCI as a compliance or "conflict free" stamp?*

As above, iTSCI does not provide certificates, stamps or guarantees. Our approach is to generate the required information to enable companies to perform their own due diligence with the benefit of knowing that the information is credible, and generated through a known process comparable across the region. It is not clear to whom you refer as international buyers – if you refer to downstream companies then their reliance is upon CFSP auditing in the first instance. The CFSP protocol does not currently evaluate due diligence nor conflict related links outside the Dodd Frank areas. Nevertheless, any downstream company can directly access information on incidents and risks occurring upstream through participation as Associate members of iTSCI should they wish to have access to, and be able to make use of such information. They do not need to depend on publicly available information.

**3. Delay in upload of due diligence reports to iTSCI website:**

*Were any of the 2015 due diligence reports submitted to iTSCI not put on iTSCI's website by 1 February 2017?*

Yes, as indicated previously, provision of an archive for member company reports to enable the public to access the information is an added service beyond the recommendation for the industry mechanism to collate and process reports (on a confidential basis). Uploading Step 5 reports is a lesser priority than other more time critical risk reporting. Following the 30% budget and staffing cuts in 2015-2016 due to the extreme adverse market conditions of which you will be aware, as well as sickness of the responsible person for Step 5 reports at ITRI, there was some delay between receipt and uploading.

*If so, please provide us with the names of the companies whose reports were not put online by this date.*

Reports regarding 2015 which were queued for uploading at that date were; Amur, MMR, Trafigura. A further 6 companies had provided reports but did not give permission for them to be uploaded, while some clarification was awaited from CMM, MSA, SMB and TMT.

**4. Politically-exposed persons:**

*Does iTSCI have a policy against accepting companies owned by "politically-exposed persons" (PEPs)? If not, please explain why iTSCI does not have such a policy.*

The DDG is the reference for iTSCI activities and PEPs are not explicitly referred to in the main body of the DDG. The Guiding Note for Upstream Company Risk Assessment (appendix), section C.2 recommends to "Identify all significant actors in the supply chain, collecting information on ownership (including beneficial ownership), corporate structure, the names of corporate officers and directors, the

ownership interests of the company or officers in other organisations, the business, government, political or military affiliations of the company and officers (in particular, focusing on potential relationships with non-state armed groups or public or private security forces.” This information is indeed requested and checked during the membership application process, however, the DDG does not specify rejection of relations with a company based on the existence of PEPs, and iTSCi therefore does not have a policy of rejection.

Footnote 42 relates to section 3.10 of the Guidance on the risk-based approach to combating money laundering and terrorist financing, Financial Action Task Force. Section 3.10 does not explicitly refer to PEPs and remains general (know the identity, identify beneficial owner, and understand the customer’s circumstances and business.)

Footnote 43 relates to chapter VI of the Guidelines on reputational due diligence, International Association of Oil and Gas Producers, and to chapter 5 of the OECD Risk Awareness Tool for Multinational Enterprises in Weak Governance Zones. These two documents do not explicitly refer to PEPs.

Could you please explain why Global Witness appears to expect such a policy for rejection to be in place?

*Has iTSCi ever refused membership to a company on the grounds that it is owned by and/or connected with a PEP?*

There is no basis for iTSCi to make such a refusal. Rejection on arbitrary grounds could be a potential issue under competition law.

An increased level of due diligence in respect of those that are determined to be of higher risk might be expected by companies and, should PEPs be identified, this is noted in iTSCi company ownership summaries which are available freely online to all.

#### **5. Incident logging:**

*Are there incidents that are flagged by in-country teams but that might not get included in iTSCi’s public incident databases?*

There are a small number of incidents, perhaps 5 per year, for which full details are not immediately included in either the distribution of monthly incidents to members, or in the latest public reports. However, the incident number is shown in order to identify that such a confidential incident has been recorded.

There are also reports provided through our iTSCi whistleblowing system that are recorded in the table of calls, but not logged as incidents since they may have no relation to the operations or 3T minerals within the scope of the programme. A preliminary evaluation is performed to ensure all incidents are relevant to the supply chain.

*If so, please explain why, i.e. what kinds of incidents don’t make it into the public incident databases? For example, is it the case that the legal constraints the scheme faces means that incidents deemed to contain confidential information or incidents lacking robust evidence don’t get logged in the public incident databases?*

Various reasons may lead to the temporary redacting of parts of incidents. The reasons can include;

- The need for secrecy to avoid jeopardizing ongoing investigations;
- The need for anonymity and protection of either the informants or the iTSCi team;
- Lack of evidence to justify serious allegations that may lead to legal challenges.

Nevertheless, the incidents are logged and followed up in the normal manner, and information is released more generally at a slightly later time as appropriate, such as on conclusion of the investigation, or collation of all details to allow us to defend against legal or other challenges.

*If so, do you agree that this means that serious incidents with human rights consequences, which may require a broader investigation than iTSCi teams are mandated to conduct, may not be included by iTSCi in its public incident databases?*

Serious human rights incidents at Level 1 are of key importance. In common with our approach to management of all risks, they are discussed with relevant stakeholders for follow up even if the follow up is beyond the mandate of iTSCi itself. For example, while carefully considering the need for

confidentiality for the above reasons, incidents would still be highlighted to the relevant authorities and to potential purchasers of impacted minerals within a short timescale. Therefore we do not agree that broader investigations are limited.

*Please could you confirm that it is the company's task, not iTSCI's, to identify and cross-check specific incidents that occur in the supply chain?*

No, we do not agree with your statement. The iTSCI staff provide the competencies and expertise on the wide range of topics as recommended by the DDG for the on the ground assessment teams. This expertise allows the teams to receive information from companies, civil society, whistleblowers, state agents and all other sources, and to evaluate the credibility. The teams also provide local knowledge to allow the best possible assessment of the evidence, and to translate the verified information into an incident report. It is not practical or efficient for individual companies to perform that work individually. Such an activity would lead to a high level of confusion and repeated enquiries from multiple stakeholders which would not be acceptable. Once iTSCI has reported incidents then yes companies should consider the relevance to their supply chains and their own circumstances and follow up themselves as required. They should also themselves cross check and follow up incidents which they observe but which they have not reported to iTSCI, should there be any.

*Please could you confirm that the iTSCI incident databases are not exhaustive?*

No we cannot confirm your statement. iTSCI records all suspected risks that are relevant to the 3T supply chain as incidents. This includes risks identified by companies and reported to us from that source, as well as other risks suggested in third party studies or reports. The incident lists aim to be as complete as possible although from time to time some issues in such a volatile and difficult environment may of course be missed.

*Could Global Witness provide information on risks that have not been included as incident reports? If you are aware of such risks we would hope/expect these to be reported to us via the normal channels. If this has not been the case could we ask why you have not reported these?*

#### **6. iTSCI's due diligence report publishing policy:**

*What is iTSCI's policy and/or advice to companies who wish to publish their annual due diligence report on iTSCI's website?*

While some companies proactively send Step 5 reports to iTSCI and request they are uploaded, the majority of reports are obtained during a regular reminder process operated by the iTSCI Secretariat. When reminders for annual reports are sent, some suggestions on some content are included;

- Comments on conflict minerals policies, due diligence plans and management responsibilities, including the role of the responsible person
- Whether you have added more resources/staff within your company to manage due diligence
- A description of what sources of information you use to assess any risks of conflict connections, either your own company investigations, or information from iTSCI, or other sources
- Comments about how you share data and information on your supply chain with your customers, whether by your own actions or through iTSCI systems to help protect your business commercial/confidential information.
- Whether you participate in EITI reporting
- How you make on the ground assessments, and/or how you use information from iTSCI from the local areas
- What kind of risks (e.g. untagged mineral, unknown suppliers, insecurity etc) you may face and whether you stop buying for certain reasons to manage the risks. How did you assess those risks.
- Whether you participate in stakeholder discussions either locally (CLS/PPP) or internationally (OECD)
- How you monitor the performance of your suppliers in terms of due diligence
- An update on activities from your previous report (essential)

*Are any constraints placed on these companies, e.g. vis-à-vis detailed risk/incident reporting, contact details, supply chain details, etc.?*

As per one bullet point above, companies are reminded to consider business commercial/confidential information in general terms. This is in accordance with footnote 34. Similarly, companies are reminded not to include information that may be questioned in terms of competition or data protection laws, such as; contact details such as emails and contact numbers, supplier/site names, pricing information.

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*Is our understanding correct that, for companies to publish their reports on the iTSCI website, they must not include any detail on specific supply chain risks? Do you agree that this prevents companies from acting in full compliance with the OECD Guidance and Step 5 in particular?*

As explained earlier, public or private discussion of factors affecting competition, including commercial confidential information and supplier relationships, would be an issue under competition law and must not be encouraged or expected. As also explained above, Step 5 does not require the disclosure of specific risks which would identify such information, but requires annual reporting of a more general nature. We therefore do not agree that companies are not acting in accordance with the DDG, nor that restriction on information recognized by footnote 34 is an issue. The guidance contained in Step 5 is being followed. Companies are also able to perform all other Steps of the DDG through information distributed to iTSCI members, whether or not that is made public.

*Is iTSCI ever submitted a more detailed report by a member but only publishes a less detailed version?*

*Does iTSCI redact information in company reports?*

iTSCI would not publish information that is not aligned with legal requirements as explained in depth above. Information such as; contact details such as emails and contact numbers, supplier/site names, pricing information is redacted.

**7. Report quality control:**

*Does iTSCI read or check the quality of the annual due diligence reports it is submitted?*

At the time of initial collation of annual reports iTSCI did not make any check on the content of the documents provided since it was still maintained that the responsibility for that content was entirely with the company itself. As time and the situation has progressed, this policy has changed and we log the actual content of the report against the suggested and other topics. This allows us to better advise and follow up in future.

*What action, if any, does it take if the report is found to be below the standard laid out in the OECD Guidance?*

As above, the DDG is not a fixed 'standard' but recommendations and guidance for a flexible and progressive approach to improvement. We do not agree with your question. Nevertheless, yes, if a report does not appear to have improved on previous versions, for example if it is exactly the same as the previous years, we would go back to request updates or clarifications.

**8. Does iTSCI have anything else to add?**

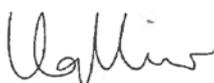
We would be pleased if you include this letter in full in your report rather than to include excerpts. If this is not possible then please advise us of your intent as it is likely that we will then also publish this response online.

Since we have facilitated some of your contacts with companies we have also received requests from them to make available their responses in full. We may also therefore include their information on our website.

We would also like to register our concern and objection to requests that Global Witness has been sending to companies requesting confirmation of supplier relationships i.e. who may or may not have bought specific batches of mineral. We do not consider those requests to be in accordance with the DDG which we encourage you to respect as the multi-stakeholder agreed text so that we may continue to support your research.

We do hope that you find the above information useful. If you have any further questions please do get in touch in advance of the publication of your report.

Yours sincerely,



Kay Nimmo, ITRI  
On behalf of the Governance Committee of the iTSCI Programme



Roland Chavasse, T.I.C.

## ENDNOTES

1 This report refers to the metals tin, tantalum, tungsten and gold as they relate to cassiterite (the ore from which tin is derived); columbite-tantalite, also known as coltan (the ore from which tantalum is derived); wolframite (the ore from which tungsten is derived); and gold.

2 See OECD, “Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas”, 2016, annex II for more detail.

3 UN Human Rights Office of the High Commissioner, “UN Guiding Principles on Business and Human Rights”, 2011.

4 UN Working Group on Business and Human Rights, “UN Guiding Principles on Business and Human Rights: An Introduction”, 2011, p.2. See: [http://www.ohchr.org/Documents/Issues/Business/Intro\\_Guiding\\_PrinciplesBusinessHR.pdf](http://www.ohchr.org/Documents/Issues/Business/Intro_Guiding_PrinciplesBusinessHR.pdf).

5 OECD, “Guidelines for Multinational Enterprises”, 2011. Available here: <http://www.oecd.org/daf/inv/mne/48004323.pdf>.

6 UN Human Rights Office of the High Commissioner, “UN Guiding Principles on Business and Human Rights”, op. cit.

7 The EU Regulation applies to companies whose imports of ores or metals containing tin, tantalum, tungsten or gold into the EU exceed certain specified annual thresholds. The law will require companies to conduct due diligence on their supply chains broadly in line with the OECD Guidance. Unlike the EU’s Regulation, the OECD Guidance applies to all mineral resources and to the entire supply chain, including companies that buy or trade products containing the four minerals. The final text of the EU Regulation is available here: <http://ec.europa.eu/trade/policy/in-focus/conflict-minerals-regulation/legal-texts-and-documents/>. See Global Witness’ June 2017 comment on the EU Regulation, “Responsible companies should act on EU mineral law now, not drag their feet for four year phase-in”, here: <https://www.globalwitness.org/en/press-releases/responsible-companies-should-act-eu-mineral-law-now-not-drag-their-feet-four-year-phase-/>.

8 Section 1502 of the 2010 Dodd-Frank Wall Street Reform and Consumer Protection Act requires, among other things, U.S.-listed companies to undertake due diligence to check if certain minerals in their products – tin, tungsten, tantalum and gold – are funding armed groups or fuelling human rights abuses in Congo and its neighbouring countries. In 2015 Global Witness and Amnesty International analysed 100 reports filed by companies with the Securities and Exchange Commission (SEC) under Section 1502 of the Dodd-Frank Act. See Global Witness and Amnesty International, 2015, “Digging for Transparency”: <https://www.globalwitness.org/en/campaigns/conflict-minerals/digging-transparency/>.

9 China Chamber of Commerce of Metals, Minerals and Chemicals Importers and Exporters (CCCME), 2015, “Chinese Due Diligence Guidelines for Responsible Mineral Supply Chains”: [https://www.globalwitness.org/documents/18138/201512\\_Chinese\\_Due\\_Diligence\\_Guidelines\\_for\\_Responsible\\_Mineral\\_Supply\\_Chains\\_-\\_En\\_K83fxt.pdf](https://www.globalwitness.org/documents/18138/201512_Chinese_Due_Diligence_Guidelines_for_Responsible_Mineral_Supply_Chains_-_En_K83fxt.pdf).

10 See “Arrêté ministériel no. 0057 CAB.MIN/MINES/01/2012 du 29 février 2012” in Congo (available here: [http://mines-rdc.cd/fr/documents/Arrete\\_0057\\_2012.pdf](http://mines-rdc.cd/fr/documents/Arrete_0057_2012.pdf)) and “Ministerial Regulations No. 002//2012/MINIRENA of 28/03/2012 on the Regional Certification Mechanism for Minerals” in Rwanda (available here: [http://www.minirena.gov.rw/fileadmin/Mining\\_Subsector/Laws\\_Policies\\_and\\_Programmes/Laws/5.Ministerial\\_Regulation\\_Regional\\_Certification\\_Mechanism\\_for\\_Minerals.pdf](http://www.minirena.gov.rw/fileadmin/Mining_Subsector/Laws_Policies_and_Programmes/Laws/5.Ministerial_Regulation_Regional_Certification_Mechanism_for_Minerals.pdf)).

11 OECD Guidance, op. cit., p.15.

12 OECD Guidance, op. cit., p. 52 and p. 111.

13 OECD Guidance, op. cit., p. 40, footnote 12.

14 The OECD Guidance (op. cit.) states that these on-the-ground assessment teams “may be set up jointly through cooperation among upstream companies while retaining individual responsibility, for generating and sharing verifiable, reliable, up-to-date information on the qualitative circumstances of mineral extraction, trade, handling and export from conflict-affected and high-risk areas.” 2016, p. 32.

15 The provincial mining authorities in Ituri only provided Global Witness with the list of 3TG exporters for 2016, not 2015. Global Witness was unable to find any public reports for 2015 or 2016 for either of the company names provided by the authorities. Partnership Africa Canada (PAC) have been working with Muungano na Maendeleo (MnM), one of the two gold exporters listed in Ituri, as part of their Just Gold project. In February 2016, PAC reported that MnM had conducted a due diligence review and taken action to address the results of this. However, as of May

2017, MnM has not yet published a due diligence report. A couple of other “conflict free” gold pilot projects are also in the pipeline in Maniema and South Kivu, run by BGR and USAID, respectively.

16 No companies exported gold from Rwanda in 2015, according to the official list provided by Rwanda’s RNRA.

17 See “Arrêté ministériel no. 0057 CAB.MIN/MINES/01/2012 du 29 février 2012” in Congo (available here: [http://mines-rdc.cd/fr/documents/Arrete\\_0057\\_2012.pdf](http://mines-rdc.cd/fr/documents/Arrete_0057_2012.pdf)) and “Ministerial Regulations No. 002//2012/MINIRENA of 28/03/2012 on the Regional Certification Mechanism for Minerals” in Rwanda (available here: [http://www.minirena.gov.rw/fileadmin/Mining\\_Subsector/Laws\\_Policies\\_and\\_Programmes/Laws/5.Ministerial\\_Regulation\\_Regional\\_Certification\\_Mechanism\\_for\\_Minerals.pdf](http://www.minirena.gov.rw/fileadmin/Mining_Subsector/Laws_Policies_and_Programmes/Laws/5.Ministerial_Regulation_Regional_Certification_Mechanism_for_Minerals.pdf)).

18 “Résumé des missions conjointes de qualification et validation/inspection en RDC, de juin 2011 à janvier 2017”, Ministère des mines and GIZ. By January 2017, 42 gold sites were validated “green” compared to 337 3T sites.

19 Arrêté N°0057 CAB.MIN/MINES/01/2012 du 29 février 2012, op. cit.

20 See, for example, « Rapport de l’étude sur les paiements dans le secteur minier artisanal au Sud Kivu », COSOC-GL, janvier 2016 ; Enough Project, « Breaking the Cycle », 2017 ; and Partnership Africa Canada, « Contraband gold in the Great Lakes region : in-region cross-border gold flows versus out-region smuggling », May 2015.

21 Global Witness, “River of Gold”, 5 July 2016, footnote 17. Available here: <https://www.globalwitness.org/en/campaigns/conflict-minerals/river-of-gold-drc/>

22 See, for example, UN Group of Experts, Final report of the Group of Experts on the Democratic Republic of the Congo, S/2014/42, 23 January 2014.

23 IPIS, “Analysis of interactive map: 2015 update,” October 2016, p4.

24 See, for example, UN Group of Expert reports S/2010/596, S/2011/738 and S/2012/843.

25 Global Witness, “River of Gold,” op. cit.

26 Global Witness, “River of Gold,” op. cit.

27 The “chefferie” is a political subdivision of the administrative hierarchy in Congo. It is led by the “chef traditionnel” or “chef coutumier.”

28 South Kivu Mining Division’s official export statistics, 2014, publicly available and accessed by Global Witness in March and November 2015.

29 The exact figure is \$29.93 million. Rwandan National Institute of Statistics, 2017.

30 See, for example, Rwanda’s ICGLR mine sites database 2015: [http://www.minirena.gov.rw/fileadmin/Mining\\_Subsector/Laws\\_Policies\\_and\\_Programmes/Form/Rwanda-ICGLR\\_mine\\_sites\\_database\\_2015.xls](http://www.minirena.gov.rw/fileadmin/Mining_Subsector/Laws_Policies_and_Programmes/Form/Rwanda-ICGLR_mine_sites_database_2015.xls). Of 101 sites, only one gold mine is listed. Desert Gold was issued a commercial gold mining licence in December 2016, which would make it the first commercial gold mine in the country, according to the company. See: <http://www.desertgold.ca/index.php/news/2017/108-desert-gold-is-granted-commercial-gold-exploitation-license-at-its-byumba-permit-in-northern-rwanda>.

31 See UN Group of Experts report S/2015/19\* and Global Witness, “Conflict gold sold on international markets despite sector clean up says new UN report”, 20 January 2015 (<https://www.globalwitness.org/en-gb/archive/conflict-gold-sold-international-markets-despite-sector-clean-says-new-un-report/>); Global Witness, “New investigation from Global Witness reveals high-level military involvement in eastern Congo’s gold trade”, 7 May 2013 (<https://www.globalwitness.org/en-gb/archive/new-investigation-global-witness-reveals-high-level-military-involvement-eastern-congos-gold/>); Global Witness, “Donors must hold Rwandan government to account for supporting new rebellion in eastern Congo”, 29 June 2012 (<https://www.globalwitness.org/en-gb/archive/donors-must-hold-rwandan-government-account-supporting-new-rebellion-eastern-congo/>).

32 See for example UN Group of Experts reports S/2012/843, S/2013/433 and S/2016/466; and Conflict Awareness Project, “The Pillage of Eastern Congo Gold: A Case for the Prosecution of Corporate War Crimes”, Project Briefing Interim Report, November 2013.

33 The List established and maintained pursuant to Security Council res. 1533 (2004), UN Security Council, 4 November 2016.

34 The OECD Guidance was developed through a multi-stakeholder process with in-depth engagement from the OECD and eleven countries of the International

Conference on the Great Lakes Region (Angola, Burundi, Central African Republic, Republic of Congo, Democratic Republic of Congo, Kenya, Rwanda, Sudan, Tanzania, Uganda and Zambia), industry, civil society, as well as the United Nations Group of Experts on the DRC. Brazil, Malaysia and South Africa also participated in one of the five multi-stakeholder consultations held to develop the Guidance and its two Supplements in 2010.

**35** In 2010 Uganda signed the Lusaka Declaration of the ICGLR Special Summit to Fight Illegal Exploitation of Natural Resources formally endorsing the OECD Guidance (article 12), available here: <https://www.oecd.org/corporate/mne/47143500.pdf>.

**36** Over the past few years, the government has taken steps towards mandating due diligence through the ICGLR's "regional certification mechanism" (RCM) (see "Gold Baseline Study Uganda", OECD, May 2015, p. 4). However, the RCM is yet to be implemented into domestic law. According to a source close to the process a draft bill proposing the incorporation of the RCM into law is currently before parliament, but there is little expectation this will be passed any time soon.

**37** African Gold Refinery Ltd's website: <http://www.agr-afr.com/>. Accessed June 2017.

**38** Uganda Revenue Authority Gold Export Figures 2014 – 2016.

**39** Other documentation includes quality and quantity, district and country of origin (whom the mineral or metal was "produced or acquired from") and the destination of the mineral or metal, among others. Any re-exports short of this documentation "shall be deemed to have been mined in Uganda and therefore required to pay royalties at the rate prescribed." Uganda Minister of Energy and Mineral Development, "Mining Act, The Mining Regulations"; Uganda Ministry of Justice and Constitutional Affairs, "Tax Amendments, 2016 – regulation 69", letter dated 30 June 2016; Ugandan Ministry of Energy and Mineral Development's Mines Department and Uganda Revenue Authority, correspondence with Global Witness, August 2017.

**40** African Gold Refinery, "A Golden Future for Uganda", press release, Kampala, 21 February 2017.

**41** According to the Ugandan Ministry of Energy and Mineral Development's Inspections and Monitoring Department, the President's proposed removal of the royalty and import fees on 20 February 2017 "has been referred through the Cabinet process as it concerns waiver of royalty under section 99 of the Mining Act (2003), a matter that would usually be considered by Cabinet to ensure that the proper consultation process is followed within the remits of the Constitution of Uganda." Correspondence with Global Witness, August 2017.

**42** Global Witness has made fuller recommendations regarding Uganda's artisanal gold sector elsewhere. See Global Witness, "Uganda: Undermined", June 2017. Available online.

**43** Supply Chain Policy, as per annex II of OECD Guidance.

**44** These were: Willem Minerals Company, Britcon and Congo Progressive Company (Coproco) in Congo; Tantalum Minerals Trading, Boss Mining Solution, Rwanda Mineral Resources, Tromea, Sunrise, Tawotin, Wolfram Mining and Processing, African Panther Resources Rwanda and Waycor in Rwanda.

**45** See OECD Guidance, op. cit., 3T Supplement, p.52, and Gold Supplement, p. 111.

**46** For the participants list of the 9th ICGLR-OECD-UN Joint Forum on Responsible Mineral Supply Chains held by the OECD in Paris from 4-6 May 2015, see: <http://www.oecd.org/daf/inv/mne/9th-3TG-Forum-participants-list.pdf>. For the annual OECD Forum website, see: <http://mneguidelines.oecd.org/icglr-oecd-un-forum.htm>.

**47** Banro's subsidiary Namoya was listed as a 2015 exporting company by Maniema's provincial mining authorities and is therefore in our sample of companies. However, according to Banro's website, Namoya only entered commercial production on 1 January 2016. Banro has a second subsidiary operating in South Kivu province, Twangiza Mining. Twangiza Mining did not feature on the list of 2015 exporting companies for South Kivu and is therefore not in our sample of companies (see full methodology in annex I and the full list of companies in annex 2). According to Banro's website, Twangiza Mining has been active in South Kivu since October 2011 and commenced commercial production in September 2012. See Banro's website: <https://www.banro.com/>.

**48** Global Witness was able to identify the period the report covered from the title of the link to the download on iTSCI's website.

**49** According to iTSCI's public membership database (updated 10 July 2017), African Panther Resources Rwanda "is owned in equal share by one German national and his Rwandan partner."

**50** See, for example, Global Witness reports "Jade: Myanmar's "Big State Secret"", 2015, and "War in the Treasury of the People: Afghanistan, Lapis Lazuli and the Battle for Mineral Wealth", 2016 (available here: <https://www.globalwitness.org/en/campaigns/oil-gas-and-mining/myanmarjade/>) and here: <https://www.globalwitness.org/en/reports/war-treasury-people-afghanistan-lapis-lazuli-and-battle-mineral-wealth/>, respectively).

**51** OECD Guidance, op. cit., p. 52, footnote 34.

**52** iTSCI incident summaries, published online here: <https://www.itri.co.uk/information/itsci/itsci-incident-summaries>.

**53** Rutongo Mines: iTSCI RW/2015/0121 at Gasambya site. iTSCI said Rutongo was enforcing its security as a result. Logged in May 2015. New Bugarama Mining Company (NBM): iTSCI RW/2015/0155 at Bugarama site. The miners died from lack of oxygen when entering areas that were closed off by NBM due to safety concerns. GMD made recommendations on safety standards of mine site. Logged in July 2015.

**54** For MSA's "corrected version" of its 2015 due diligence report, see "Final MSA 2015 Annual Due Diligence Report", here: <http://www.msald.net/media/publications>. Accessed August 2017.

**55** iTSCI lists Société générale de commerce (Sogecom) as owned by one Indian and one British national in their public membership database.

**56** iTSCI incident databases, published online here: <https://www.itri.co.uk/information/itsci/itsci-incident-summaries>.

**57** See, for example, iTSCI incident SK/2015/0038, which involved bandits attacking the company's truck on a road (though the driver managed to keep going).

**58** Max Impact, "Evaluation de l'implémentation du système de traçabilité dans la province du Sud Kivu: Gestion de flux de minerais (de la production au point d'achat) dans les sites validés en territoires de Walungu, Kabare, Mwenga, Kalehe et Uvira", January 2016. Available online: <http://cosoc-gl.org/wp-content/uploads/2016/04/EVALUATION-DE-LIMPLEMENTATION-DE-LA-TRACABILITE-DE-MINE-RAIS-AU-SUD-KIVU-4.pdf>.

**59** Radio France Internationale (RFI) reported on this incident, citing the kidnap of not one but two employees of Concern Worldwide, who were "held for a few hours and released unharmed." See: <http://en.rfi.fr/africa/20151102-ngo-workers-kidnapped-ransom-eastern-democratic-republic-congo>.

**60** Ministère des Mines, « Compte rendu de la réunion ordinaire du comité provincial de suivi des activités minières au Sud Kivu (CPS), ce jeudi 27/08/2015 ».

**61** For MSA's "corrected version" of its 2015 due diligence report, see "Final MSA 2015 Annual Due Diligence Report", here: <http://www.msald.net/media/publications>. Accessed August 2017.

**62** Société Minière de Bisunzu (SMB) (formerly MHI) owns concession PE 4731, Bibatama. SMB directly exploits one mine in this concession (Bibatama D2), while the rest (Luwowo, D4 Gakombe, Koyi, Mataba D2, Bundjali and Bibatama D3) are operated in partnership with COOPERAMMA via a Memorandum of Understanding. See: [http://www.whymap.org/EN/Themen/Min\\_rohstoffe/CTC/Downloads/compliance\\_rapport\\_bibatama\\_frz.pdf?\\_\\_blob=publicationFile&v=2](http://www.whymap.org/EN/Themen/Min_rohstoffe/CTC/Downloads/compliance_rapport_bibatama_frz.pdf?__blob=publicationFile&v=2).

**63** Official 2015 provincial mining division report seen by Global Witness.

**64** iTSCI incident NK/2015/0053 at Bibatama: on 29 June 2015 clashes between inhabitants carrying out salongo and the SMB manager occurred; tensions arose and PNC agents ensuring SMB's security fired at the crowd and ended up killing one person. iTSCI incident NK/2015/0108: unidentified men shot an SMB employee at an [unidentified] SMB camp. Victim was hospitalised.

**65** iTSCI incident NK/2015/0018 at Rubaya.

**66** Gouvernement provincial du Katanga, Ministère des mines et affaires foncières, « Contrat d'encadrement des exploitants artisanaux et d'achat des minerais sur les gisements de Kisengo, Mai Baridi, Lunga et Katonge conclu entre le ministère provincial des mines et affaires foncières et la société MMR », 23 March 2010, Lubumbashi. Available online here: <http://www.congomines.org/system/attachments/assets/000/000/272/original/B14-MMR-2010-ContratEncadrementArtisan-auxMMR-MinProvKatanga.pdf?1430928291>.

**67** See, for example, “Who pays the hidden price for Congo’s conflict-free minerals?”, Emmanuel Freudenthal, IRIN, 14.2.17. Available here: <https://www.irinnews.org/investigations/2017/02/14/who-pays-hidden-price-congo%E2%80%99s-conflict-free-minerals>.

**68** N.B. It is important to note that the relatively high number of incidents logged by iTSCI does not necessarily imply that Mining Mineral Resource’s supply chain is more problematic than other companies in our sample. This could be due to a number of other factors, for example large or widespread operations, or better scrutiny of and reporting on their supply chain in comparison to other companies.

**69** See, for example, UN Group of Expert reports S/2010/596, S/2011/738, S/2012/348 and S/2012/843. For Congo Minerals & Metals’ (CMM) response to the UN Group of Experts’ allegations in report S/2012/348, see paragraphs 143 and 144. See CMM’s pledge to implement due diligence procedures in October 2012 in annex 75 of UN Group of Experts report S/2013/433.

**70** Such as the names of mine sites, the location of sales and transit points, and the names of traders and their trading card numbers, for example.

**71** iTSCI, « iTSCI Programme Incidents and Outcomes : 2011 to 2016 », March 2017, p. 5.

**72** A Global Witness staff member has been on iTSCI’s Advisory Panel since 2012. See: <https://www.itri.co.uk/information/itsci/membership-information/list-of-current-itsci-advisory-panel-members>. The authors of this report have based their research on the information iTSCI makes available to the public via its website.

**73** US imports data from Panjiva, accessed 22 February 2017.

**74** Financial Action Task Force (FATF), “International Standards on Combatting Money Laundering and the Financing of Terrorism and Proliferation: The FATF Recommendations”, updated June 2017, available here: <http://www.fatf-gafi.org/media/fatf/documents/recommendations/pdfs/FATF%20Recommendations%202012.pdf>.

**75** Regarding recommendations on politically-exposed persons (PEPs) in the extractives sector see, for example, OECD, “Corruption in the Extractive Value Chain: Typology of Risks, Mitigation Measures and Incentives”, 2016 and Natural Resource Governance Institute (NRGI), “Twelve red flags: corruption risks in the award of extractives sector licenses and contracts”, April 2017. Regarding PEP recommendations contained in international anti-money laundering standards for banks, financial professionals and some non-financial institutions (including dealers in precious metals and precious stones), see FATF Guidance, “Politically Exposed Persons (Recommendations 12 and 22)”, June 2013.

**76** iTSCI, “List of current iTSCI full members latest file update”, updated 4 August 2017. Available online: <https://www.itri.co.uk/information/itsci/membership-information>.

**77** Global Witness, Anonymous company owners campaign, see: <https://www.globalwitness.org/en/campaigns/corruption-and-money-laundering/anonymous-company-owners/>.

**78** iTSCI membership information and databases, available online here: <https://www.itri.co.uk/information/itsci/membership-information>.

**79** While the OECD Guidance doesn’t directly cite PEPs, it makes recommendations on identifying companies’ beneficial owners, as well as diverse corruption risks, including bribery. See, for example, sections 11, 12 and 14 of annex II, OECD Guidance, op. cit.

**80** UN Guiding Principles on Business and Human Rights, op. cit., p3.

**81** Lusaka Declaration of the International Conference on the Great Lakes Region (ICGLR) Special Summit to Fight Illegal Exploitation of Natural Resources in the Great Lakes Region, 15 December 2010, Lusaka, Zambia.

**82** In 2010 Uganda signed the Lusaka Declaration of the ICGLR Special Summit to Fight Illegal Exploitation of Natural Resources in the Great Lakes region (Lusaka Declaration). In doing so, it committed to make sure its relevant institutions implement the ICGLR’s Regional Certification Mechanism (RCM). The RCM requires companies operating in or sourcing minerals from ICGLR member states to undertake due diligence in line with the OECD standard in order to receive a certificate for export. For the Lusaka Declaration, see: <https://www.oecd.org/corporate/mne/47143500.pdf>. For the RCM, see: <https://www.icglr.org/images/ICGLR%20Certification%20Manual%20Final%20Nov%202011En.pdf> (accessed 8.6.2017).

**83** See, for example, OECD Watch, “Threatening not for profits undermines the OECD principles”, 2 May 2017, <https://www.oecdwatch.org/news-en/threatening-not-for-profits-undermines-oecd-principles>.

**84** In January 2017, Rwanda Mines, Petroleum and Gas Board (RMPGB) replaced the Rwandan Natural Resources Authority (RNRA) and the Geology and Mines Department (GMD); MINIRENA still exists as the Ministry of Natural Resources.

**85** Ituri’s provincial mines minister told Global Witness “concerning the year 2015, we’d have to resort to the archives in Kisangani, which at the time was the capital of Orientale province [prior to the division, or “découpage”, of Congo’s provinces in mid-2015]. Ituri is still in an embryonic state in terms of industrial mining.” Email correspondence, January 2017.

**86** Congolese Ministry of Mines’ website: <http://mines-rdc.cd/mines/main/main>. Accessed and accurate as of 1 February 2017.

**87** “Rapport d’exportation des minerais: Exercice 2015”, Division Provinciale de Mines Sud-Kivu.

**88** To do otherwise would require compiling a list of companies that: are officially exporting; are registered as exporters but do not appear in the export statistics; are exporting but are not registered; and are smuggling. This level of research is outside the scope and resources of this paper.

**89** Congolese Ministry of Mines’ website: <http://mines-rdc.cd/mines/main/main>. Accessed and accurate as of 1 February 2017.

**90** In response to Global Witness, African Gold Refinery (AGR) wrote that “it was resolved that as refiners, AGR would operate under the Ministry of Finance” and “AGR doesn’t declare exports through the Ministry of Energy but under the Ministry of Finance’s organs, i.e. URA [Uganda Revenue Authority] and Bank of Uganda.”

**91** iTSCI website: <https://www.itri.co.uk/itsci/frontpage>.

**92** ICGLR website: <https://www.icglr.org/index.php/en/>.

**93** Due diligence reports hosted online on Congolese Ministry of Mines’ website, here: <https://www.mines-rdc.cd/fr/index.php?layout=edit&id=493>.

**94** Most of these “2015” reports were actually published in 2016. Some covered September 2014–September 2015, others covered January–December 2015. We have taken the reporting period into account when analysing the report against the iTSCI incident database.

**95** iTSCI incident summaries, available online here: <https://www.itri.co.uk/information/itsci/itsci-incident-summaries>.



A lady walks at dusk along the main road in the town of Mwenga in South Kivu, eastern Congo in April 2015. Many mineral traders work out of Mwenga, which is surrounded by several cassiterite mine sites. © Phil Hatcher-Moore, 2015.



## **global witness**

Global Witness investigates and campaigns to change the system by exposing the economic networks behind conflict, corruption and environmental destruction.

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