

# ITSCI IS UNWILLING TO ADDRESS ITS FAILURES

Companies must now pressure it to take strong action

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**November 2022**



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## **ITSCI fails to contest Global Witness's allegations**

In April 2022 Global Witness published the detailed report “The ITSCI laundromat – How a due diligence scheme appears to launder conflict minerals” uncovering the very serious failures of the ITSCI traceability and due diligence scheme in the Democratic Republic of Congo and Rwanda. ITSCI aims to avoid conflict financing and human rights abuses for tin, tantalum and tungsten supply chains, collectively known as 3T minerals. However, large amounts of minerals connected to armed conflict and child labour, as well as smuggled or trafficked minerals have been laundered through ITSCI's supply chains, evidence suggests. It seems that ITSCI has turned a blind eye to these issues, that its controls don't work and its incident system is flawed, downplaying or ignoring incidents.

In its public response ITSCI fails to adequately address any of the problems raised and necessary reforms. Instead of seizing the opportunity for self-critical reflection and seriously dealing with the allegations, ITSCI has published an aggressive response denying all allegations, often based on insubstantial evidence, while leaving key questions unanswered. Its response is often incoherent and contains many misleading and incorrect statements as well as crude misrepresentations of GW's claims.

Global Witness's main allegations remain uncontradicted by ITSCI's response. In this statement we reiterate the importance of our main findings and ITSCI's failure to contest them.

With ITSCI being unwilling to address its failures, companies sourcing minerals from ITSCI supply chains must now pressure ITSCI to act. ITSCI must reform its highly inadequate governance structure and publish mine-level data of tagged minerals.

## **Contamination of ITSCI supply chain with minerals from illicit sources and conflict minerals in South Kivu**

Global Witness has documented that in Nzibira sector around 80% and in Luhago sector around 90% of ITSCI-tagged 3T minerals respectively came from illicit sources in Q1 of 2021.<sup>1</sup> The calculation compares government statistics showing the volumes of minerals introduced into ITSCI supply chains with estimates by government and industry officials of how much these mines produced.<sup>2</sup>

Government officials implementing the ITSCI system have admitted to Global Witness that many of the mines in these two areas are not productive and that tagging agents commonly introduce minerals from illicit sources into ITSCI supply chains.<sup>3</sup>

ITSCI's response on this issue is deeply unsatisfactory. Regarding Luhago sector, the most serious case of contamination, ITSCI states that it does not hold records “anywhere near” the scale of Global Witness's data (without revealing its own data) and claims that Global Witness has “the wrong and exaggerated data”.<sup>4</sup> However, the agency at the DRC Ministry of Mines responsible for tagging these minerals and producing these statistics shared data that corroborates Global Witness's data when approached for comment.<sup>5</sup> To be clear, Global Witness's calculation is based on detailed official statistics that local tagging agents produce and showing the individual shipments of minerals.<sup>6</sup>

In Nzibira sector Global Witness compared the production of 7 green-rated mines with the volumes of minerals attributed to them. In its response, ITSCI doesn't question the production estimates nor the volumes of tagged minerals but refers to around 18 further mines in the sector (ITSCI doesn't give a precise number nor does it disclose the names of those additional mines) which according to ITSCI were “mostly active” and would account for “any discrepancy” (corresponding to the considerable volume of 66 tonnes during Q1 in 2021).<sup>7</sup> ITSCI's response does not only lack the information that could make its

denial credible, it also implies that tagging agents have indeed wrongly attributed 80% of tagged minerals to green mines as the government statistics only show the 7 mines Global Witness has referred to but none of the additional mines ITSCI identifies.<sup>8</sup> If the tagged minerals came from legitimate sources as ITSCI seems to claim, there wouldn't be any reason for tagging agents to wrongly attribute them to other mines. It seems much more likely that minerals came from other sectors and in fact, a number of well-placed sources told Global Witness that minerals from mines linked to conflict and where children work were introduced into ITSCI's Nzibira and Luhago supply chains.<sup>9</sup>

**Comparison of tagged minerals and estimated production of green-rated mines in Nzibira sector**

Green-rated mines	Tagged minerals (kg, Q1 2021)	Estimated production (kg, Q1 2021)
<b>Mahamba</b>	5,250	438
<b>Kanyungu</b>	4,575	1,050
<b>Mushangi D8</b>	11,307	6,852
<b>Zola-Zola D23</b>	16,028	1,710
<b>Chembeke</b>	22,825	348
<b>Chaminyago</b>	8,012	1,920
<b>Tshosho</b>	14,862	3,810
<b>Total</b>	<b>82,859</b>	<b>16,128</b>

In its response ITSCI refers in much detail to the validation status of mines and criticises Global Witness for referring to it in its analysis.<sup>10</sup> The validation status of a mine is a traffic-light categorisation of mines (green, yellow and red status to which recently a blue status has been added) based on the findings of validation missions and inspections which evaluate whether mines are connected to armed groups and severe

human rights abuses.<sup>11</sup> In its response ITSCI writes that it does “not rely on validation”<sup>12</sup> but uses “additional mine evaluation[s]”<sup>13</sup> to determine legitimate sources of minerals. The 18 mines mentioned above seem to be mines ITSCI has evaluated and found to be legitimate sources of minerals.

ITSCI’s accusations regarding the validation status are mostly a digression from the issue of large amounts of minerals being wrongly attributed to mines. As just shown above, whatever mines one considers to be legitimate sources of minerals, Global Witness’s data shows that 80% of minerals have been wrongly attributed to 7 mines in Nzibira sector.

However, ITSCI’s marginalisation of the mine validation process and the announcement of its own “mine evaluations” are quite astonishing as ITSCI seems to completely disregard that a green or yellow (or as of late, a blue) validation status is a legal requirement for trading with 3T minerals in the DRC,<sup>14</sup> the host country ITSCI is operating in, and not Global Witness’s “preference” as ITSCI puts it.<sup>15</sup> Congolese law requires mines to be evaluated by multistakeholder teams, inspectors or independent auditors.<sup>16</sup> As none of these three options apply to ITSCI, it seems that there is no legal basis for ITSCI’s own evaluations. ITSCI has not provided an answer to Global Witness’s questions<sup>17</sup> what the legal basis for its mine evaluations and for introducing minerals from those mines into ITSCI supply chains is.<sup>18</sup>

In our report we have noted that DRC regulations require a revalidation of mines after only a year, which is usually not undertaken.<sup>19</sup> In practice the DRC government therefore considers mines that have been validated “green” in the past to keep that status. This is the practice that officials have implemented in Nzibira and Global Witness has based its assessment in the report on that practice when it referred to green-rated mines. When ITSCI characterises Global Witness’s understanding of the validation approach as misguided,<sup>20</sup> it therefore criticises the way its own government partners implement the system. That local mining officials were according to our

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interviews not aware that ITSCI has supposedly evaluated 18 further mines in Nzibira sector, points to further inconsistencies between the ITSCI secretariat's approach and how its partners implement the ITSCI system.<sup>21</sup>

With its unilateral approach, ITSCI is not only apparently undermining DRC law but also the approach agreed among the governments of the region under the framework of the International Conference on the Great Lakes Region,<sup>22</sup> and supported by the German Institute for Geosciences and Natural Resources and the International Organisation of Migration. This is even more surprising as ITSCI is at the same time itself heavily involved in this process through Pact, its partner implementing the scheme on the ground.<sup>23</sup>

Instead of following the multilaterally agreed approach, ITSCI prefers to determine itself which mines it finds to be legitimate sources of minerals at any given time.<sup>24</sup> ITSCI doesn't provide any details what criteria it applies and doesn't publish the results of such evaluations, further circumventing scrutiny. As a reminder, even though ITSCI had promised to publish mine level data of tagged minerals when setting the programme up,<sup>25</sup> it has kept that data secret,<sup>26</sup> in its response falsely referring to the OECD Guidance which in fact does not support its claim of production data being protected by business confidentiality.<sup>27</sup>

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In our report, we have identified several of the sources of the minerals contaminating the ITSCI supply chain at Nzibira and Luhago sectors. Government officials responsible for tagging ITSCI's minerals, local authorities, traders, representatives of mining cooperatives and civil society actors have all stated to Global Witness that ITSCI supply chains have been contaminated with minerals connected to armed conflict and child labour.<sup>28</sup> Although our findings on armed group involvement confirms similar findings from the UN Group of Experts,<sup>29</sup> ITSCI finds "no evidence to support these assertions"<sup>30</sup> or seems

to be satisfied with the denial from "local stakeholders" that conflict minerals enter the ITSCI scheme.<sup>31</sup> Their denial is hardly surprising, as local stakeholders have stated to Global Witness that they profit from the mineral laundry undertaken in their villages since it strongly supports local commerce.<sup>32</sup> It is not reassuring that when approached before the publication of our report, ITSCI was quick to "contest and deny" any contamination of its supply chains before it had the time to thoroughly investigate the allegation.<sup>33</sup>

However, ITSCI has thoroughly investigated the question in the past, confirming some of the same allegations of conflict minerals entering its scheme at Nzibira but failed to publicly report the damaging findings. When allegations of serious contamination of its Nzibira supply chain were made for the first time in 2015, ITSCI did the right thing and, through its partner Pact, sent a consultant to investigate them.<sup>34</sup> The consultant not only confirmed that ITSCI's Nzibira supply chain was contaminated to a high degree but also uncovered that minerals from several conflict-affected mines entered the system (namely some of the same mines from which Global Witness has identified conflict minerals to still be laundered through ITSCI's system in 2021) and that ITSCI's own agents are covering these issues up.<sup>35</sup> However, ITSCI omitted all of this evidence from its incident reporting, which raises serious concerns whether ITSCI is interested in solving the issues.<sup>36</sup> Even though ITSCI's omission of reporting these critical findings can easily be checked by any person in the publicly available ITSCI incident database,<sup>37</sup> ITSCI continues to stubbornly deny that it has omitted reporting these issues.<sup>38</sup> ITSCI also continues to deny that Pact commissioned the consultant's report mentioned above without explaining in its response why a senior Pact officer's name appears as the author in the properties of the document. The report also includes detailed instructions how the collected information should be shared with Pact and bears the ITSCI logo.<sup>39</sup>

We have to expect that like other reports documenting the contamination of Nzibira supply chains during the last five years, these cases will remain “unresolved” or “inconclusive” in ITSCI’s incident reporting system.<sup>40</sup> Ironically, ITSCI considers its stakeholder engagement process, which has continuously failed to resolve issues, “to be an excellent example of the process of mitigation of risks”.<sup>41</sup> Meanwhile downstream companies continue to source ITSCI-tagged minerals supporting violent rebel groups and extracted by children.

These are not single cases. Companies using ITSCI’s system should find it very disconcerting that Global Witness found issues at all tagging stations it has visited<sup>42</sup> and that particularly in South Kivu the areas visited account for a large share of exported minerals.

The conflict of interest at the heart of the ITSCI scheme can explain why ITSCI seems to turn a blind eye to these issues. ITSCI is supposed to stop problematic minerals from entering international markets while at the same time representing those that profit from buying and then selling on these minerals.<sup>43</sup> Appealing to the naivety of its readers, in its response ITSCI claims that running the ITSCI programme as a non-profit and with the two persons on its governance committee representing the International Tin

Association (ITA) and Tantalum-Niobium International Study Centre (TIC) rather than individual companies, solves the conflict of interest. However, far from being impartial actors, both the ITA and the TIC represent the main buyers of 3T minerals from the Great Lakes Region and ITA states its mission as “to bring leading companies together to defend and grow markets for tin”.<sup>44</sup>

## The laundry of trafficked minerals in North Kivu

Apart from conflict minerals entering ITSCI’s supply chains, ITSCI has also presided over the laundering of hundreds of tonnes of coltan that have been trafficked from the non-ITSCI member concession of SMB in Masisi territory in North Kivu to the adjacent SAKIMA concession where ITSCI tags minerals.

Records show an enormous increase of coltan production on the SAKIMA concession rising from just over a hundred tonnes in 2017 to staggering 843 tonnes in 2021.<sup>45</sup> In its response, ITSCI continues to argue that in the Nyagisenyi mine (reportedly the most productive of the SAKIMA mines at the time) almost 210 tonnes of coltan have been produced by artisanal miners in 2020, which has been questioned by the UN Group of



Artisanal miners in the Nyagisenyi mine. *Global Witness*

Experts.<sup>46</sup> ITSCI claims that the Nyagisenyi mine’s extension is larger than the UN Group of Experts’ estimation to which Global Witness has referred to.<sup>47</sup> Taking the larger extension into account, Global Witness counted 345 artisanal miners at the Nyagesinyi site in September 2022, a higher number than the 70 to 150 miners the UN reported for 2020.<sup>48</sup>

Our production estimate of the mine is at around 50 tonnes of 3T minerals per year, which is still only a fraction of the over 236 tonnes of minerals ITSCI tagged and attributed to the mine in 2021 (ITSCI tagging data from 2022 seen by Global Witness indicate a similar volume of minerals being attributed to the Nyagisenyi mine in 2022).<sup>49</sup>

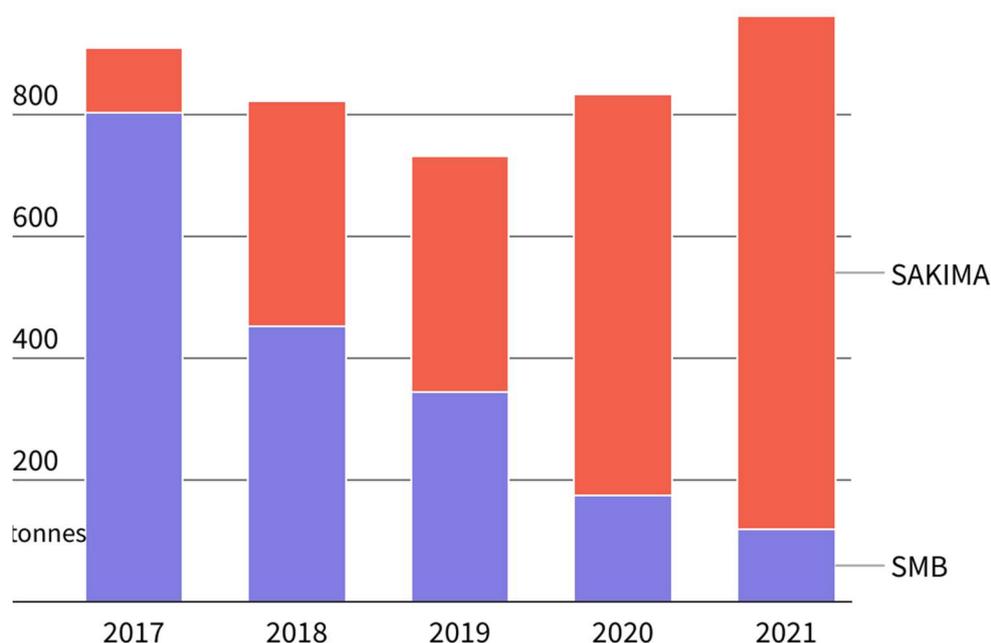
The UN Group of Expert has also questioned the production of the Birambo and Mululu mines on the SAKIMA concession<sup>50</sup> but according to ITSCI its “production data shows good correlation with baseline estimates for these sites”<sup>51</sup> despite the UN Group of Experts having found the latter site to be “not operational”.<sup>52</sup>

Global Witness has spoken to a UN source who has analysed aerial imagery of the SMB and

SAKIMA concessions, which show further SAKIMA mines, namely Mutanga, Mululu and Bihula abandoned or with just a few miners.<sup>53</sup> However, according to official records 112, 90 and 60 tonnes of 3T minerals respectively have been attributed to these three mines through ITSCI in 2021.<sup>54</sup>

DRC government statistics show that during the period from 2017 to 2021, the SMB concession’s production fell from 800 tonnes in 2017 to barely 120 tonnes in 2021. The low number of tagged minerals in 2021 contrasts with aerial imagery the above-mentioned UN source has analysed, showing well over a thousand miners in the mines on the SMB concession.<sup>55</sup> ITSCI claims that the apparent decrease in SMB’s production is largely due to the lost access to a river used to wash minerals after a re-demarcation of the SMB concession from February 2018.<sup>56</sup> The claim is not convincing in view of the almost 400 water points (including pumping stations), around two for each mining pit, that a North Kivu Ministry of Mines mission found on the concession in July 2018<sup>57</sup> and in fact, the monthly production data remained at least at the same level or shows even

### Official coltan production at the SMB and SAKIMA concessions in the Rubaya area 2017-2021, measured in terms of minerals tagged



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an increase when SMB's mines were reopened in September 2018 after a suspension.<sup>58</sup>

The shift of tagged minerals on the two concessions which is not accompanied by a corresponding shift in production levels, points to the high volumes of coltan trafficked from the SMB to the SAKIMA concession, about which the UN Group of Experts has reported at least since 2018.<sup>59</sup>

After businessman John Crawley lost access to SMB's coltan due to a dispute with SMB in 2017, his company CDMC has exported most of the trafficked minerals since 2018.<sup>60</sup> John Crawley has also held very senior posts at the TIC, one of the two associations running ITSCI. He is a former president of TIC and was a TIC executive member at least until 2020.<sup>61</sup> Again, ITSCI's governance structures, with only two representatives, one from the ITA and the other from the TIC, on its governance committee,<sup>64</sup> seem to be utterly inadequate to deal with risks of conflicts of interest.

Trying to turn the tables, ITSCI claims that Global Witness is biased towards SMB<sup>62</sup> despite Global Witness severely criticising SMB in the same report. Global Witness reported that guards protecting SMB sites have used excessive violence and shot dead miners<sup>63</sup> (ITSCI wrongly claims that Global Witness hadn't reported this).<sup>64</sup> Unlike the organisations running ITSCI and its members which have strong financial interests in accessing the minerals from the Great Lakes Region, Global Witness has no interests. Our role is that of a watchdog civil society organisation - we document and report on wrongdoing. ITSCI explains that reporting on SMB in a balanced way would mean for example to report on SMB's connection to an armed group "around 2006-2007"<sup>65</sup>, which it accuses Global Witness to have "omitted". Although ITSCI dismisses Global Witness's allegations older than a couple of years as "of no relevance today"<sup>66</sup>, it doesn't explain how this said connection is relevant to the current situation in the Rubaya area. Regarding

SMB's past connection with an armed group, we refer ITSCI to our 2009 publication, in which we reported about these connections.<sup>67</sup> Our latest report has focused on ITSCI's wrongdoings however, much to ITSCI's disapproval, it seems.

Global Witness has reported how ITSCI seemingly abused its incident system to punish SMB after it left the scheme, which led to the blockage of 120 tonnes of its minerals, as buyers were scared off. This exacerbated SMB's pre-existing financial difficulties to pay its artisanal miners who consequently increasingly trafficked minerals to the SAKIMA concession and eventually resulted in deadly violence between SMB's guards and artisanal miners.<sup>68</sup> In its response, ITSCI does not give an explanation why it published three incident reports related to SMB (two of which were at the highest level), the day after SMB announced that it would leave ITSCI, even though the respective events happened more than two months earlier.<sup>69</sup>

The core problem this case illustrates and which must be addressed, is the risk of abuse of an incident system in the hands of an industry scheme run by associations whose members have strong commercial interests. ITSCI wrongly claims that Global Witness would advocate not to report incidents if they damaged the reputation of a company.<sup>70</sup> This is entirely false. Global Witness has in the same report quoted a former Pact manager, according to whom the ITSCI secretariat has regularly omitted publishing severe incidents detailing wrongdoing of some of the largest exporters of minerals from Rwanda, that he reported to ITSCI.<sup>71</sup> For ITSCI to report only incidents that refer to supply chains it actually covers, as a senior DRC Ministry of Mines official repeatedly urged ITSCI to do,<sup>72</sup> seems like a sensible solution in consideration of at least three further cases Global Witness is aware of, in which companies not being part of ITSCI supply chains allege that ITSCI abused its incident reports to undermine their activities.<sup>73</sup>

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## Laundering of smuggled minerals in Rwanda

Global Witness reported that industry experts estimated Rwanda's 3T production, particularly the production of coltan, to be only a fraction of the country's exports of these minerals, suggesting that large volumes of 3T minerals are smuggled from DRC.<sup>74</sup> ITSCI proposes that these sources made their estimation without taking into account minerals from mixed production<sup>75</sup> but this is not the case.<sup>76</sup> A Pact manager who played a key role in setting the ITSCI system up in Rwanda, estimates fraudulent tagging of smuggled minerals through the ITSCI scheme to account for 90% of exported 3T minerals from Rwanda during the first years after its set up.<sup>77</sup> ITSCI tries to downplay the statement because it finds one basis of the Pact manager's findings, Rwanda's production data from before ITSCI started, not "fully credible".<sup>78</sup> However, ITSCI ignores that the Pact manager has primarily based its statement on a system to assess production in ITSCI-covered mines he and his team regularly visited that he set up under the ITSCI programme.<sup>79</sup>

ITSCI wrongly claims that the above-mentioned allegations have been tested and not upheld by a court. Some of the claims have indeed been made during a World Bank arbitration case lost by investors who argued that their mining permits were unfairly withdrawn by the Rwandan state. However, contrary to ITSCI's claim,<sup>80</sup> the arbitration court didn't make any judgment on the question of mineral smuggling and ITSCI's role of tagging them at all.<sup>81</sup>

In its response, ITSCI also ignores statements of eyewitnesses who have seen Congolese trucks and traders bringing minerals to Minerals Supply Africa (MSA) and other companies which were some of the main profiteers of ITSCI-tagged "Rwandan" minerals.<sup>82</sup> Furthermore, ITSCI hasn't reacted to the reported statement by Kyocera AVX, a leading electronics component manufacturer, which claimed that it decided to

"implement an immediate stop to buying any material from MSA" after creating a programme determining the origin of minerals which it suspected to be smuggled.<sup>83</sup> TIC wrote to Global Witness that it found no comments related to that matter in the minutes of the TIC meeting and denied any allegation that it would not seek the best method to identify the sourcing of tantalum in Africa.<sup>84</sup>

## Traceability and due diligence

ITSCI writes that Global Witness has an "over-focus on traceability"<sup>85</sup> and a preference for the certification of "conflict-free" minerals as opposed to due diligence efforts to identify and mitigate risks.<sup>86</sup> However, Global Witness has not taken any position on the two approaches to conflict minerals in its report but has instead assessed how ITSCI implements both elements.

On that point we note that the ITSCI secretariat's clear assertion that it "does not claim to provide certification or guarantee of 'conflict-free' minerals"<sup>87</sup> seems to contradict its partners' view of the ITSCI system's role. The DRC government assigns traceability schemes a central role<sup>88</sup> in its "certification system"<sup>89</sup> for "conflict-free" minerals<sup>90</sup> and Pact is even in recent publications widely referring to the ITSCI scheme's role in "conflict-free" mineral supply chains<sup>91</sup> - an extensive Pact report is called "Unconflicted - Making conflict-free mining a reality in the DRC, Rwanda and Burundi".<sup>92</sup>

Our research shows very serious and systemic failures with regard to both key elements of the ITSCI scheme - the traceability of minerals as well as providing reliable due diligence services.

With regard to ITSCI's due diligence system, we have mentioned above that ITSCI has apparently abused its incident system to punish a company that left the ITSCI scheme and are aware of three further cases in which companies have made similar allegations of ITSCI abusing its incident system against certain companies.<sup>93</sup> We have also

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mentioned that ITSCI has failed to report critical information from its consultant report about the Nzibira supply chain. Worryingly, ITSCI has omitted information or downplayed incidents related to all examined reports on contamination issues in the Nzibira supply chain.<sup>94</sup>

When a former CEO in the minerals sector in Rwanda reported a case of suspected smuggled minerals to the ITSCI secretariat in 2014, he claimed to have received a reply from ITSCI only after more than a year. ITSCI apparently ignored the serious concerns and simply informed him that he could either return the coltan to the miner who had sold it to him or proceed with the purchase at his own risk. In its response to our report, ITSCI refers to an incident report which according to ITSCI covers the case – however, the incident ITSCI refers to is from 2013 whereas the CEO had reported the issues in 2014.<sup>95</sup> It therefore seems that this is another case that was not reported through ITSCI’s incident system.

Furthermore, in our report we quote a former Pact manager who has stated to Global Witness that the ITSCI secretariat has systematically ignored incident reports on some of the most important 3T exporters in Rwanda.<sup>96</sup>

Despite all this evidence of ITSCI downplaying or ignoring incidents, which was included in our report, ITSCI wrongly claims in its response that Global Witness’s allegation was based on just one source.<sup>97</sup>

### **ITSCI’s aggressive approach to criticism**

Despite leaving many key questions unanswered, ITSCI’s response to our report is one of almost categoric denial of our allegations. Following the publication of our report, Global Witness spoke to a source who said that they heard a Pact manager tell a senior DRC government agent, that he needed his support to be able to “deny” Global Witness’s report “in its entirety”,<sup>98</sup> suggesting that ITSCI never intended to address our findings seriously. Despite continuously

referring to the importance of “progressive improvement”<sup>99</sup> ITSCI seems to be unable to confront its mistakes.

With its response, ITSCI makes it clear that researchers reporting on ITSCI’s failures can’t expect fair treatment. Instead of thoroughly addressing the problems highlighted by Global Witness, ITSCI tries to discredit Global Witness by misrepresenting our claims. For example, ITSCI makes up claims that in Global Witness’s view ITSCI’s “incident reporting should not rely on government counterparts”<sup>100</sup> and that ITSCI “should not involve stakeholders in mitigation”,<sup>101</sup> (we write that it is problematic that ITSCI’s incident reporting strongly relies on government counterparts and other stakeholders and actors who usually have little interest in exposing the flaws of the system), that “ITSCI should pay for government agents (sic) salaries”<sup>102</sup> (we have reported that an official feels that he’s not paid enough but don’t make any further suggestion), or that “ITSCI should take on the role of government”<sup>103</sup> and that “mitigation and resolution of risks [through the ITSCI programme] if (sic) not allowable”.<sup>104</sup> (It is not clear to us on what these final misrepresentations are based. Global Witness has explained in detail what the DRC government’s role in the ITSCI scheme is, finds risk mitigation and resolution important and in fact has criticised ITSCI for the lack of effective risk mitigation and resolution in the same report).

While ITSCI has not contacted Global Witness prior to its response, we sought comment from ITSCI before publishing our report and have extensively incorporated ITSCI’s response in our report. However, ITSCI falsely claims on several occasions that its comments have not been reported.<sup>105</sup> ITSCI also repeatedly accuses Global Witness of having “omitted” information from our report even though ITSCI has failed to share the respective information when approached for comment.

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ITSCI's aggressive approach to any criticism is very disappointing but not new. In 2020 it tried to suppress critical information in a research paper of a postgraduate student at the University of Antwerp about ITSCI's Rwanda programme by threatening to sue the university and request damages.<sup>106</sup>

minerals would be important steps for ITSCI to become a reliable scheme. Any company that is serious about responsibly sourcing minerals and that is sourcing from ITSCI supply chains must now pressure ITSCI to act.

It's telling for ITSCI's approach to criticism from researchers who report on inconvenient truths that it tries to blame the messenger for the problems, ITSCI and its members contributed to. Although 90% of ITSCI-tagged minerals in Rwanda were smuggled in its early days according to the manager who ran the respective system<sup>107</sup> and at least 10 of the companies closely associated with the set-up of the ITSCI system were previously cited by UN reports as having sourced smuggled or conflict minerals,<sup>108</sup> ITSCI makes the nonsensical claim that Global Witness has contributed to smuggling in the Great Lakes Region, apparently by reporting on DRC minerals being linked to conflict in the 2000's.<sup>109</sup>

### **Companies must pressure ITSCI to overhaul its scheme**

For its members and downstream companies sourcing from ITSCI smelters, ITSCI's response must be seen as a clear sign that ITSCI will continue to ignore evidence of laundered minerals. It is evidently not willing to overhaul its system as needed, nor improve transparency and won't change its governance structure if not compelled. With ITSCI turning a blind eye, it is up to the involved key stakeholders to act now in a meaningful way.

The Responsible Minerals Initiative has an important role to play. Global Witness welcomes its decision to remove ITSCI from its list of recognised "upstream assurance mechanisms".<sup>110</sup> This is an important signal but more needs to be done.

Reforming ITSCI's governance structure to include more and in particular independent persons and publishing mine-level data of tagged

## ENDNOTES

- <sup>1</sup> Global Witness (2022): The ITSCI laundromat, pp.16, 22.
- <sup>2</sup> Global Witness (2022): The ITSCI laundromat, p.13.
- <sup>3</sup> Global Witness (2022): The ITSCI laundromat, pp.16, 17, 22.
- <sup>4</sup> ITSCI (2022): ITSCI Response to Global Witness ‘The ITSCI Laundromat’, p.23.
- <sup>5</sup> South Kivu Provincial Directorate of SAEMAPE, Opportunity to comment response, 26/12/21. The South Kivu Provincial Directorate of SAEMAPE shared a production figure for the Luhago sector of 24,906kg for the first quarter of 2021, somewhat lower than the figure of 29,916kg for tagged minerals seen by Global Witness for that period but still more than 12 times higher than the estimated production of 2,022kg.
- <sup>6</sup> DRC government tagging statistics for Luhago sector, seen by Global Witness.
- <sup>7</sup> ITSCI (2022): ITSCI Response to Global Witness ‘The ITSCI Laundromat’, p.18.
- <sup>8</sup> DRC government tagging statistics for Nzibira sector, seen by Global Witness.
- <sup>9</sup> Global Witness interview with government official, 2021 (Global Witness interview G1); Global Witness interview with local authorities, 2021 (Global Witness interview G2); Global Witness interview with civil society representative, 2021 (Global Witness interview G3); Global Witness interview with trader, 2021 (Global Witness interview G5); Global Witness interview with government official, 2021 (Global Witness interview E1); Global Witness interview with government official, 2021 (Global Witness interview E2); Global Witness interview with local administration, 2021 (Global Witness interview D1); Global Witness interview with civil society representative, 2021 (Global Witness interview D4); Global Witness interview with trader, 2021 (Global Witness interview D5); Global Witness interview with mining cooperative representative, 2021 (Global Witness interview D6).
- <sup>10</sup> ITSCI (2022): ITSCI Response to Global Witness ‘The ITSCI Laundromat’, p.18.
- <sup>11</sup> ITSCI (2022): ITSCI Response to Global Witness ‘The ITSCI Laundromat’, p.12.
- <sup>12</sup> ITSCI (2022): ITSCI Response to Global Witness ‘The ITSCI Laundromat’, pp.7, 15
- <sup>13</sup> ITSCI (2022): ITSCI Response to Global Witness ‘The ITSCI Laundromat’, p.17.
- <sup>14</sup> Arrêté ministériel 0057/CAB.MIN/MINES/01/2012 du 29 Février 2012 portant mise en œuvre du mécanisme régional de certification de la conférence internationale sur la région des grands lacs (CIRGL) en République Démocratique du Congo, article 7 ; Arrêté ministériel 0058/CAB.MIN/MINES/01/2015 du 29 octobre 2015 fixant les procédures de qualification et de validation des sites miniers des filières aurifère et stannifère dans les provinces du Katanga, du Maniema, du Nord Kivu, du Sud Kivu et de la Province Orientale, articles 9 and 10; Arrêté ministériel 0919/CAB.MIN/MINES/01/2012 du 23 février 2012 fixant les procédures de qualification et de validation des sites miniers des filières aurifère et stannifère en RDC, articles 9 and 10; Arrêté ministériel 00677/CAB.MIN/MINES/ANSK/01/2021 du 12 novembre 2021 fixant les procédures de qualification et de validation des sites miniers des filières aurifère, stannifère, cupro-cobaltifère et des pierres de couleurs en RDC, article 11.
- <sup>15</sup> ITSCI (2022): ITSCI Response to Global Witness ‘The ITSCI Laundromat’, p.18.
- <sup>16</sup> Arrêté ministériel 0058/CAB.MIN/MINES/01/2015 du 29 octobre 2015 fixant les procédures de qualification et de validation des sites miniers des filières aurifère et stannifère dans les provinces du Katanga, du Maniema, du Nord Kivu, du Sud Kivu et de la Province Orientale, articles 9 and 10; Arrêté ministériel 0919/CAB.MIN/MINES/01/2012 du 23 février 2012 fixant les procédures de qualification et de validation des sites miniers des filières aurifère et stannifère en RDC ; Arrêté ministériel 00677/CAB.MIN/MINES/ANSK/01/2021 du 12 novembre 2021 fixant les procédures de qualification et de validation des sites miniers des filières aurifère, stannifère, cupro-cobaltifère et des pierres de couleurs en RDC, articles 6-7.
- <sup>17</sup> Letter from Global Witness to ITSCI, 7/10/2022.
- <sup>18</sup> Letter from ITSCI to Global Witness, 11/10/2022.
- <sup>19</sup> Global Witness (2022): The ITSCI laundromat, p.71, fn. 54.
- Decrees confirming the validation of mines even refer to a period of only half a year during which mines keep their validation status.
- <sup>20</sup> ITSCI (2022): ITSCI Response to Global Witness ‘The ITSCI Laundromat’, p.17.
- <sup>21</sup> Global Witness interview with mining official, 2022 (Global Witness interview G13)
- <sup>22</sup> ICGLR (2019): Manual of the Regional Certification Mechanism, second edition, p.20.
- <sup>23</sup> We note that Pact seems to disagree with the ITSCI secretariat on this point and reflects the DRC law on its website: “Only minerals coming from green validated sites and tagged can be legally exported from the DRC” .<sup>23</sup> (Pact website, <https://www.pactworld.org/itsci/partners>).
- <sup>24</sup> ITSCI (2022): ITSCI Response to Global Witness ‘The ITSCI Laundromat’, p.7.
- <sup>25</sup> ITSCI (2011): ITSCI 5-year plan: DRC & Rwanda, p.35 (<https://www.sec.gov/comments/s7-40-10/s74010-326.pdf>).
- <sup>26</sup> ITSCI (2022): ITSCI Response to Global Witness ‘The ITSCI Laundromat’, p.52.
- <sup>27</sup> ITSCI (2022): ITSCI Response to Global Witness ‘The ITSCI Laundromat’, pp.12, 50, 70; OECD (2016): OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas. Third edition, footnote 34: “Business confidentiality and other competitive concerns means price information and supplier relationships without prejudice to subsequent evolving interpretation.” <https://www.oecd.org/corporate/mne/mining.htm>
- <sup>28</sup> Global Witness interview with government official, 2021 (Global Witness interview G1); Global Witness interview with local authorities, 2021 (Global Witness interview G2); Global Witness interview with civil society representative, 2021 (Global Witness interview G3); Global Witness

interview with trader, 2021 (Global Witness interview G5); Global Witness interview with government official, 2021 (Global Witness interview E1); Global Witness interview with government official, 2021 (Global Witness interview E2); Global Witness interview with local administration, 2021 (Global Witness interview D1); Global Witness interview with civil society representative, 2021 (Global Witness interview D4); Global Witness interview with trader, 2021 (Global Witness interview D5); Global Witness interview with mining cooperative representative, 2021 (Global Witness interview D6).

<sup>29</sup> UNGoE (2018): Midterm report of the group of experts on the Democratic Republic of the Congo, S/2018/1133, paragraph 89.

<sup>30</sup> ITSCI (2022): ITSCI Response to Global Witness ‘The ITSCI Laundromat’, p.19.

<sup>31</sup> ITSCI (2022): ITSCI Response to Global Witness ‘The ITSCI Laundromat’, p.7.

<sup>32</sup> Global Witness interview with mining official, 2021 (Global Witness interview G1).

<sup>33</sup> ITSCI: Opportunity to comment response, 15/12/2021.

<sup>34</sup> ITSCI (2022): ITSCI Response to Global Witness ‘The ITSCI Laundromat’, p.19.

<sup>35</sup> Global Witness (2022): The ITSCI laundromat, p.20.

<sup>36</sup> Global Witness (2022): The ITSCI laundromat, p.20.

<sup>37</sup> ITSCI incident summaries 2016; SK/2016/0065 of 18/04/16 (<https://www.itsci.org/incident-summaries-public/>).

<sup>38</sup> ITSCI (2022): ITSCI Response to Global Witness ‘The ITSCI Laundromat’, p.22.

<sup>39</sup> Global Witness (2022): The ITSCI laundromat, p.20.

<sup>40</sup> ITSCI incident summaries: SK-2020-0014; SK-2019-0181; SK-2018-0035; SK-2017-0056, SK-2017-0103, SK-2017-0232, SK/2016/0064; SK/2016/0124 (<https://www.itsci.org/incident-summaries-public/>).

<sup>41</sup> ITSCI: Opportunity to comment response, 15/12/2021, p.16.

<sup>42</sup> ITSCI (2022): ITSCI Response to Global Witness ‘The ITSCI Laundromat’, chapters 2.1, 2.2, 2.3.

<sup>43</sup> ITSCI (2022): ITSCI Response to Global Witness ‘The ITSCI Laundromat’, p.45.

<sup>44</sup> ITA website: <https://www.internationaltin.org/heritage-vision/>

<sup>45</sup> North Kivu Mining Division and North Kivu Provincial Directorate of SAEMAPE: Monthly production statistics 2021.

<sup>46</sup> UNGoE (2021): Final report of the group of experts on the Democratic Republic of the Congo, S/2021/560, p.168.

<sup>47</sup> ITSCI (2022): ITSCI Response to Global Witness ‘The ITSCI Laundromat’, p.36

<sup>48</sup> UNGoE (2021): Final report of the group of experts on the Democratic Republic of the Congo, S/2021/560, p.168.

<sup>49</sup> Division Provinciale des Mines et Géologie, Nord-Kivu, RDC : PV de conciliation des statistiques de production mensuelle des substances minérales : janvier – décembre 2022.

<sup>50</sup> UNGoE (2021): Final report of the group of experts on the Democratic Republic of the Congo, S/2021/560, p.168.

<sup>51</sup> ITSCI (2022): ITSCI Response to Global Witness ‘The ITSCI Laundromat’, p.37.

<sup>52</sup> UNGoE (2021): Final report of the group of experts on the Democratic Republic of the Congo, S/2021/560, p.168.

<sup>53</sup> Global Witness interview with UN source, 10/2022 (Global Witness interview P 43).

<sup>54</sup> Division Provinciale des Mines et Géologie, Nord-Kivu, RDC : PV de conciliation des statistiques de production mensuelle des substances minérales : janvier – décembre 2022. See: SMB and SAKIMA: production per site 2021.

<sup>55</sup> Global Witness interview with UN source, 10/2022 (Global Witness interview P 43).

<sup>56</sup> ITSCI (2022): ITSCI Response to Global Witness ‘The ITSCI Laundromat’, p.37.

<sup>57</sup> Ministère de Mines RDC (2018): Rapport de la descente aux sites miniers de Rubaya pour le suivi de la mise en œuvre des dispositions liées au protocole de collaboration entre la SMB Sarl et la COOPERAMMA du 10/07/2018 au 14/07/2018, p.6.

<sup>58</sup> Division Provinciale des Mines et Géologie, Nord-Kivu, RDC (2018): Rapport annuel 2017, p.14; Division Provinciale des Mines et Géologie, Nord-Kivu, RDC (2019): Rapport annuel 2018, p.16; Division Provinciale des Mines et Géologie, Nord-Kivu, RDC (2020): Rapport annuel 2019, p.13.

<sup>59</sup> UNGoE (2018): Midterm report of the group of experts on the Democratic Republic of the Congo, S/2018/1133, annex 12; UNGoE (2019): Midterm report of the group of experts on the Democratic Republic of the Congo, S/2019/974, para 47; UNGoE (2021): Final report of the group of experts on the Democratic Republic of the Congo, S/2021/560, para 67; UNGoE (2020): Final report of the group of experts on the Democratic Republic of the Congo, S/2020/482, para 97.

<sup>60</sup> Global Witness (2022): The ITSCI laundromat, p.36-37.

<sup>61</sup> Tantalum-Niobium International Study Center: 2020 Annual Report, p.9-10.

<sup>62</sup> ITSCI (2022): ITSCI Response to Global Witness ‘The ITSCI Laundromat’, p.32.

<sup>63</sup> Global Witness (2022): The ITSCI laundromat, p.39.

<sup>64</sup> ITSCI (2022): ITSCI Response to Global Witness ‘The ITSCI Laundromat’, p.10.

<sup>65</sup> Global Witness (2022): The ITSCI laundromat, p.40.

<sup>66</sup> ITSCI (2022): ITSCI Response to Global Witness ‘The ITSCI Laundromat’, pp.8, 25.

<sup>67</sup> Global Witness (2009): Faced with a gun, what can you do? p.71 (<https://www.globalwitness.org/en/campaigns/democratic-republic-congo/faced-gun-what-can-you-do/>).

<sup>68</sup> Global Witness (2022): The ITSCI laundromat, p.7.

<sup>69</sup> Global Witness (2022): The ITSCI laundromat, p.37.

<sup>70</sup> ITSCI (2022): ITSCI Response to Global Witness ‘The ITSCI Laundromat’, p.12.

<sup>71</sup> Global Witness (2022): The ITSCI laundromat, p.46.

<sup>72</sup> Joseph Ikoli, Secretary General of DRC Ministry of Mines (2019), Réf: 1650/BUR.SG/Mines/IK.YA/01/2019, Votre

lettre du 16 Avril 2019, 3 June; Joseph Ikoli, Secretary General of DRC Ministry of Mines (2018): ITSCI Alert : FARDC participating in mineral trade, Kachuba, Kabare Territory, South Kivu, DRC SK-2018-0044-(level)-1, 3 April.

<sup>73</sup> Global Witness interview with natural resource governance expert, 7/2022 (Global Witness interview NN); Global Witness interview with industry expert, 7/2021 (Global Witness interview P11); confidential memorandum from industry source, 2021.

<sup>74</sup> Global Witness (2022): The ITSCI laundromat, p.48.

<sup>75</sup> ITSCI (2022): ITSCI Response to Global Witness 'The ITSCI Laundromat', p.51.

<sup>76</sup> Global Witness interviews with industry experts, 9/2022.

<sup>77</sup> Global Witness (2022): The ITSCI laundromat, p.47.

<sup>78</sup> ITSCI (2022): ITSCI Response to Global Witness 'The ITSCI Laundromat', p.50.

<sup>79</sup> Global Witness (2022): The ITSCI laundromat, p.48.

<sup>80</sup> ITSCI (2022): ITSCI Response to Global Witness 'The ITSCI Laundromat', pp.11, 49.

<sup>81</sup> International Centre for Settlement of Investment Disputes in the arbitration proceeding between Bay View Group LLC and the Spalena Company LLC Claimants and Republic of Rwanda, Respondent ICSID Case No. ARB/18/21 – AWARD,

[https://icsidfiles.worldbank.org/icsid/ICSIDBLOBS/OnlineAwards/C7231/DS17457\\_En.pdf](https://icsidfiles.worldbank.org/icsid/ICSIDBLOBS/OnlineAwards/C7231/DS17457_En.pdf)

<sup>82</sup> Global Witness (2022): The ITSCI laundromat, p.55, 56. Compare with ITSCI (2022): ITSCI Response to Global Witness 'The ITSCI Laundromat', p.59-60.

<sup>83</sup> KAVX, Opportunity to comment response, 06/12/21.

<sup>84</sup> TIC, letter to Global Witness, 25/10/21.

<sup>85</sup> ITSCI (2022): ITSCI Response to Global Witness 'The ITSCI Laundromat', p.47.

<sup>86</sup> ITSCI (2022): ITSCI Response to Global Witness 'The ITSCI Laundromat', pp.6, 14.

<sup>87</sup> ITSCI (2022): ITSCI Response to Global Witness 'The ITSCI Laundromat', p.14.

<sup>88</sup> Arrêté ministériel 0057/CAB.MIN/MINES/01/2012 du 29 février 2012 portant mise en œuvre du mécanisme régional de certification de la conférence internationale sur la région des grands lacs (CIRGL) en République Démocratique du Congo, article 7; Ministère des Mines et Ministère des Finances, République Démocratique du Congo (2014): Manuel des procédures de traçabilité des produits miniers: De l'extraction à l'exportation.

<sup>89</sup> Arrêté ministériel 0057/CAB.MIN/MINES/01/2012 du 29 février 2012 portant mise en œuvre du mécanisme régional de certification de la conférence internationale sur la région des grands lacs (CIRGL) en République Démocratique du Congo.

<sup>90</sup> Arrêté ministériel 0919/CAB.MIN/MINES/01/2015 du 29 octobre 2015 fixant les procédures de qualification et de validation des sites miniers des filières aurifère et stannifère en RDC, article 4; Arrêté ministériel 00677/CAB.MIN/MINES/ANSK/01/2021 du 12 novembre 2021 fixant les procédures de qualification et de validation des sites miniers des filières aurifère,

stannifère, cupro-cobaltifère et des pierres de couleurs en RDC, article 11.

<sup>91</sup> Pact website, <https://www.pactworld.org/features/itsci-decade-success>; <https://www.pactworld.org/blog/reversing-%E2%80%98conflict-minerals%E2%80%99-let%E2%80%99s-formalize-artisanal-mining-peaceful-just-and-inclusive>, <https://www.pactworld.org/leadership/micka%C3%ABL-daudin>.

<sup>92</sup> Pact (2015): Unconflicted, Making conflict-free mining a reality in the DRC, Rwanda and Burundi, <https://www.pactworld.org/sites/default/files/unconflicted.pdf>.

<sup>93</sup> Global Witness interview with natural resource governance expert, 7/2022 (Global Witness interview NN); Global Witness with industry expert from 7/2021 (Global Witness interview P11); confidential memorandum from industry source, 2021.

<sup>94</sup> Global Witness (2022): The ITSCI laundromat, pp.20, 45, 46.

<sup>95</sup> Global Witness (2022): The ITSCI laundromat, p.51.

<sup>96</sup> Global Witness (2022): The ITSCI laundromat, p.46.

<sup>97</sup> ITSCI (2022): ITSCI Response to Global Witness 'The ITSCI Laundromat', p.23.

<sup>98</sup> Global Witness interview with source, 2022 (Global Witness interview SK3).

<sup>99</sup> ITSCI (2022): ITSCI Response to Global Witness 'The ITSCI Laundromat', pp.42, 47, 50.

<sup>100</sup> ITSCI (2022): ITSCI Response to Global Witness 'The ITSCI Laundromat', p.48.

<sup>101</sup> ITSCI (2022): ITSCI Response to Global Witness 'The ITSCI Laundromat', p.48.

<sup>102</sup> ITSCI (2022): ITSCI Response to Global Witness 'The ITSCI Laundromat', p.44.

<sup>103</sup> ITSCI (2022): ITSCI Response to Global Witness 'The ITSCI Laundromat', p.46.

<sup>104</sup> ITSCI (2022): ITSCI Response to Global Witness 'The ITSCI Laundromat', p.69.

<sup>105</sup> See ITSCI (2022): ITSCI Response to Global Witness 'The ITSCI Laundromat', p.10: "GW notes that two COOPERAMMA members were shot dead in June 2019 (see NK-2019-0086) but fails to explain this was by mining police contracted to SMB to guard their concession". Compare with Global Witness (2022): The ITSCI laundromat, p.41: "In June 2019, three COOPERAMMA miners were shot dead by mining police guarding the SMB concession after they had allegedly entered illegally."; ITSCI (2022): ITSCI Response to Global Witness 'The ITSCI Laundromat', p.44: "Pact asserted in December 2021 that it was false they attempted to undermine government hierarchies, with a reminder that Pact does not have the role or the authority to direct any government officials or demand anyone in government to take action yet GW has not reflected this response. Compare with Global Witness (2022): The ITSCI laundromat, p.41: "It [Pact] denied that it undermines government hierarchies as it does not have "authority to take action against state agents."

<sup>106</sup> Email from ITSCI to University of Antwerp, seen by Global Witness.

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<sup>107</sup> Global Witness (2022): The ITSCI laundromat, p.47.

<sup>108</sup> Global Witness (2022): The ITSCI laundromat, p.53-54, 60.

<sup>109</sup> ITSCI (2022): ITSCI Response to Global Witness 'The ITSCI Laundromat', p.48.

<sup>110</sup> RMI website,  
<https://www.responsiblemineralsinitiative.org/news/rmi-upstream-mechanism-recognition-update/>.