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Michael S. Piwowar
Acting Chairman
U.S. Securities and Exchange Commission
100 F Street NE
Washington, DC 20549
USA

Submitted online 16th March 2017

Dear Acting Chairman Piwowar,

Comments on January 31, 2017, statement on the Commission's Conflict Minerals Rule

I am writing on behalf of ITRI (formerly the International Tin Research Institute), the non-profit association of the global tin mining and production industry. Under Section 1502 of the Dodd Frank Act tin mineral (cassiterite) is considered one of the 3T metals potentially funding conflict and human rights abuses in the Democratic Republic of Congo and our industry has been impacted in multiple positive and negative ways by the influence of the SEC Rule.

In recent times the central African region has not been a significant producer of tin, supplying just 5.3% of the global market demand in the peak year of 2008. This had already fallen at the time of enactment of the Dodd Frank Act as a result of aggressive NGO and UN reporting, and continued to drop to only 2.8% of world mined supply in 2015. Nevertheless, despite a limited business case to intervene, ITRI and its tin producing member companies recognised and wished to contribute to resolving conflict related risks.

At an early stage, in October 2009 tin was the first sector to pledge to source from the region only if part of an appropriate due diligence scheme. ITRI contributed to the drafting of the OECD Due Diligence guidance in 2010 and had by then already voluntarily established a joint industry mechanism to provide practical assistance to mineral producers and traders to meet those US and international expectations. This mechanism, our ITRI Tin Supply Chain Initiative (iTSCi), has continually grown and progressed since that time, and, during 2016 enabled the regional export of 17,873 tonnes of 3T concentrate; including 12,868 tonnes of cassiterite equalling an increased 3.1% of the world mined production in 2016. The period of de-facto embargo has passed, and a period of growth of conflict-free supply is now underway.

I would like to directly address various points made in your statement on the conflict minerals rule drawing on our directly relevant expertise and knowledge of trade, conflict and risk management on the ground.

"While visiting Africa last year, I heard first-hand from the people affected by this misguided rule. The disclosure requirements have caused a de facto boycott of minerals from portions of Africa, with effects far beyond the Congo-adjacent region."

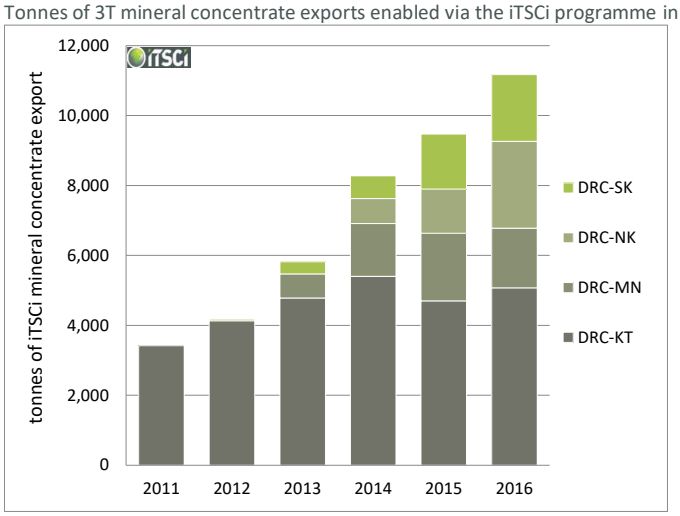
> As acknowledged above, the Rule did indeed create the circumstances for a de-facto embargo on certain areas and the reasons and timescales for this are covered in more detail in the attached Annex 1 '*iTSCi Implementation 2011-2016*'. In summary, the understandable desire of companies to avoid public disclosure of

risks, and the absence of appropriate phase-in time or US financial support for the required structural changes across a global industry and at the local level in Africa.

I understand that you visited Rwanda in mid-February 2016 in order to follow up on the visit of the then Rwandan Minister of Mines to the US House of Representatives in November 2015, but may not have visited the DRC or other adjoining areas. It would therefore be useful to gather and take into account the annexed information on the timelines of local embargo effects and consider the wider view in your evaluations.

In order to avoid embargo, credible information to allow companies to reduce conflict risks through appropriate due diligence to a level where trade could continue was required, and this information was and still is provided for African 3T minerals via the iTSCi programme. Where iTSCi was put in place 3T mineral trade continued, while, where iTSCi was not in place mineral production slowed, remained affected by conflict, or suffered from illegal activity and fraud. In recent years, best estimates indicate that iTSCi includes and helps to monitor the trade of approaching 100% of all legally exported 3T minerals from the region. Examination of official export data would show the clear correlation between iTSCi implementation, continued trade and lack of embargo at local level, as well as the opposite.

Tonnes of 3T mineral concentrate exports enabled via the iTSCi programme in the period 2011-2016



iTSCi traceability and due diligence was put in place in Rwanda and the Katanga province of DRC in early 2011 and there was no de-facto embargo on these areas at any time. Other parts of the DRC, including South and North Kivu remained under embargo until iTSCi was introduced step-by step from 2013 onwards. At the current time, with the presence of iTSCi in almost all important 3T mining and trading areas, there is no longer widespread embargo despite the continuation of the 'conflict mineral' provisions of the Rule. As noted above, the percentage of tin produced by the region is recovering from the embargo and is continuing to increase.

While we agree that the Rule has had impacts beyond the African region, these are positive impacts such as encouraging transparency of supply chain actors and implementation of the OECD due diligence guidance. We do not observe negative impacts stretching beyond the African region and remain unsure as to what these impacts may be. Further comment is therefore not possible.

Each of the 3TG minerals are suppling to different markets with differing dynamics and demands. Of the 3T minerals, the marketing of wolframite (tungsten) from Africa has been the most challenging even when traceable, from monitored supply chains and conflict-free. Nevertheless, recent changes in supply patterns have encouraged improvement in this sector as well and, again, the start of a recovery from previous embargo.

"Legitimate mining operators are facing such onerous costs to comply with the rule that they are being put out of business."

As noted above, your visit to Rwanda was made in mid-February 2016. This time coincided with a deep trough in all commodity prices not just 3TG, and in particular the international tin price at that time which was the lowest for many years. Operators would indeed have been struggling to cover all business costs at the metal prices available in the open market, in the same way and that all mining operators, of all types, globally were similarly struggling under the same circumstances. Information on mining company closures and losses for all minerals and in all locations around this time are readily and easily available with minimal research, even the oil and other commodity industries were similarly impacted. The business environment has been improving since that time which was an exceptional, and not typical, period.

There are of course costs associated with due diligence, traceability, improving governance and other progressive improvements but these actions certainly lead to better working and living environments for many thousands of individuals and it would surely be impossible to argue against these benefits of formalisation of the artisanal mining sector. Larger scale mining companies also incur comparable costs for corporate social responsibility programmes expected by consumers and it would be wrong to view the artisanal sector in a lessor way and undeserving of basic human rights protection.

Formalisation in itself therefore increases costs to operators who are expected to work in a more systematic way, and for example, pay taxes which they may not have previously paid. Taking the example of Rwanda, in 2010 there was no list of mine sites, no government field agents, and poor export statistics, mining was not entirely licenced, and miners worked with limited protective equipment or regard to environmental controls. The majority of exports were from legally reprocessed minerals mined elsewhere and not from Rwandan mines. The mining authority collected no taxes or fees and this significantly limited their activity. Now in 2017, the progress made across the sector has resolved all these drawbacks and Rwandan mining has grown significantly, but, licences, protective equipment and government controls all have a cost. Operators may tend to confuse costs of general and essential improvements and formalisation with costs for responsible conflict free trade required by the Rule.

The roadblock to pushing back the de-facto embargo in areas where no due diligence programme was in place and production had dipped does relate to the cost of setting up, equipment purchase, training and similar costs. Any donor programmes directed to the region tended to be for support of piece-meal interventions and no US support was directed to the industry favoured iTSCi programme that were directly pushing back the embargo. This unfortunate situation slowed progress but has now been in the main overcome although some areas are yet to be added to iTSCi scope.

The number of companies engaged locally and internationally in the iTSCi programme and in 3T mineral trade from the region has continually grown year on year. Companies looking to invest and provide finance for development of the sector are regular visitors to the region whereas in earlier years there were none. The very fact that the trade and businesses continue to operate in itself is evidence that legitimate operators are not being put out of business. The very opposite is the case as less reputable operators are now finding it more challenging to work. (*Please refer to information in the 'iTSCi incident and outcomes' attachment*).

Further information on the complex interaction of metal prices, due diligence costs and business can also be found in an open letter of late 2015 issued around the time of your Rwandan visit;
https://www.itri.co.uk/index.php?option=com_mtree&task=att_download&link_id=55397&cf_id=24

It may also be useful to compare past information on predicted upstream cost, to current actual costs. In a submission to SEC of 27 January 2011 from ITRI we noted that;

> "The cost quoted to set up a mineral source validation scheme (page 74) of $8-10 million represents one year of operation in some areas of the DRC, it does not represent a cost to cover mineral production in all DRC countries, nor all of the conflict minerals. It also only represents upstream costs, not downstream company costs."

In fact, through various efficiencies and commitment of all operational partners to minimise costs, iTSCi is currently operating at the lower end of this cost scale while including almost all relevant areas of the DRC as well as three other countries.

"It is also unclear that the rule has in fact resulted in any reduction in the power and control of armed gangs or eased the human suffering of many innocent men, women, and children in the Congo and surrounding areas."

While the introduction of the Rule was too rapid, with little support provided to those who needed to comply, it certainly galvanised action, incentivising progress and improvement in circumstances on the ground. The very fact that traceable minerals can sell at twice the price of untraceable minerals provides a powerful reason for everyone along the supply chain to carefully consider their actions. Through the systems in place as part of iTSCi, communities can report wrongdoing and know that issues will be followed up, and operators also know that serious conflict or human rights abuses will lead to suspension of mining activity or trade.

Annex 2 attached is our recent '*iTSCi incident and outcomes*' document which provides a range of data that explains what risks exist, how successfully they have been addressed, and what the positive outcomes have been for the men, women and children of the DRC and other adjoining countries.

From 2011 to 2016 iTSCi recorded and monitored 3,063 individual incidents relating to due diligence, traceability, security, human rights, corruption, child labour and other issues such as health and safety and environmental issues. As a result of this monitoring process, as well as awareness-raising and training activities of iTSCi at up to 1,341 mine sites, conflict and human rights abuses were minimised. In six years;

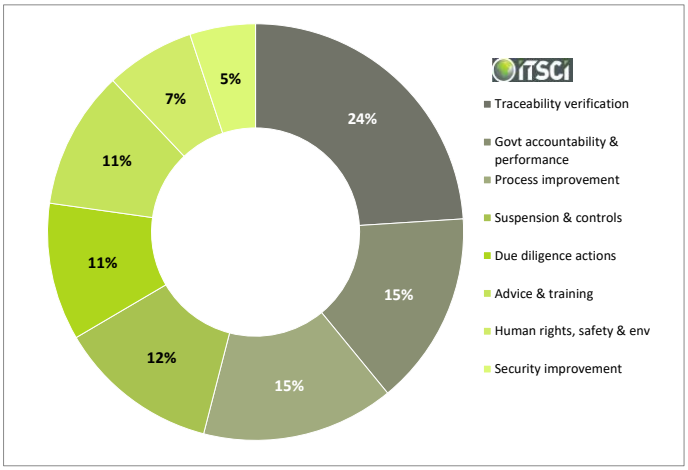
- Instances of serious human rights abuses were very low, averaging 2 per year;
- Potential risks from non-state armed groups or unidentified bandits totalled just 22, or 0.7% of incidents;
- Potential or actual interference, including taxation, by state security services was recorded 62 times, representing only 2% of incidents.

From all the recorded incidents there were 2,081 positive, notable and verified outcomes achieved by companies (improved due diligence), government (better control), iTSCi (improved systems) and civil society. Progress via these outcomes was observed in the following proportions;

- Traceability verification (24%)
- Government accountability and improved performance (15%)
- Process improvements in due diligence and systems (15%)
- Suspension and controls of mines or companies (12%)
- Due diligence actions on specific supplies (11%)
- Advice and training by iTSCi or others (11%)
- Human rights, safety and environmental improvements (7%)
- Security improvements by state and private services (5%)

All data and general local experience and understanding points to demonstrated progressive improvement in the 3T mineral sector. It would not be credible to conclude that no improvement or benefit has been brought about through the various activities driven by the Rule.

Positive outcomes achieved through resolved iTSCi incidents in the period 2011-2016



While there have been enormous improvements in the 3T sector, the same cannot be said of the 'G', gold sector. There has been no joint industry driven programme to address gold in the same way that iTSCi addresses 3T, and as a result of that, as well as other factors, gold remains the major contributor to conflict financing. There has been no de-facto embargo on gold since there has been no industry wide control across the upstream gold supply chain. There has been no large scale formalisation of the gold sector and as a result no increase in tax revenues or improved security of human rights. Indeed, the presence of gold mines close to 3T mines continues to represent a risk to iTSCi operations and the 3T supply chain. While regional standards and mechanisms also apply to gold this suggests that support from industry wide programmes is also key to progress.

Our objective is to work in a positive way with all local and international partners, whether companies, governments, NGO's, civil society or other groups. The availability of iTSCi traceability information at the point of export enables local government agents to issue their export certificate which is a part of the International Conference of the Great Lakes (ICGLR) regional expectation.

Further background and informative videos can be found here; http://www.pactworld.org/node/1157/media

Stories of other positive benefits are available here; https://www.itri.co.uk/information/itsci/news-bulletins-success-stories

"Moreover, the withdrawal from the region may undermine U.S. national security interests by creating a vacuum filled by those with less benign interests."

The basis for this statement is not entirely clear. Presuming that there is a continued embargo (which is not the case) this statement indicates that mineral operators prior to any embargo were 'benign' and therefore that their leaving has in some way caused harm and opened an opportunity for 'worse' actors.

Our experience, figures and audits on more than 340 companies participating in iTSCi demonstrates the opposite. As part of the iTSCi programme we collate data on company ownership and this is independently verified through a third party. We are well aware of the beneficial interests of all participating companies. As a result, we can state that most mining and exporting companies were, and still are locally owned. There has

never been a significant US interest in the 3T minerals trade in the DRC or adjoining countries. Between 2011 to 2016 there were around four US based companies as members of iTSCi, while in 2017 we are processing applications for an additional three – which, while still at a low level, would almost double US interest in the 3T sector.

Some, but not all, significant mineral buyers left the region for a period of time, but those same buyers have now returned to buy minerals within the scope of the iTSCi programme. There is no observable significant change in interests between 2010 and 2017 and as far as we are aware, the Rule has had no effect whatsoever on the extent of US or other foreign non-local interests in the sector.

This submission describes very briefly the causes of impacts and concerns regarding the Rule, as well as the current situation, taking into account our knowledge and experience over time. There are many complex and interacting factors to consider and a more in depth understanding would be necessary before reaching any determination on the future of the Rule. Other data and documentation is available from ITRI to support any of the above points and can be provided on request in order to assist evaluation of the SEC. ITRI has previously commented on Dodd Frank and the Rule. Almost all comments made in those earlier submissions remain relevant and should also be referred to as part of this consultation. In particular, you will find in these previous submissions explanations around why the embargo would occur, and how financial support and time could have been provided to prevent the harm that occurred to businesses and local communities. The documents also describe how the requirement to disclose 'not conflict free' was a major driver to the embargo. The partial stay of May 2014 is therefore a positive action that should be supported.

Previous relevant submissions can be referenced online;

- July 2010 upon release of Dodd Frank when the consequences that have since come to pass were already predictable; https://www.itri.co.uk/index.php?option=com_mtree&task=att_download&link_id=49715&cf_id=24
- Comments to SEC, 22 November 2010; https://www.itri.co.uk/index.php?option=com_mtree&task=att_download&link_id=49717&cf_id=24
- Comments to SEC, 27 January 2011; https://www.itri.co.uk/index.php?option=com_mtree&task=att_download&link_id=52970&cf_id=24
- Comments to SEC, 25 February 2011; https://www.itri.co.uk/index.php?option=com_mtree&task=att_download&link_id=52971&cf_id=24
- Comments to SEC, 31 October 2011; https://www.itri.co.uk/index.php?option=com_mtree&task=att_download&link_id=52973&cf_id=24
- Presentation at the SEC roundtable held on 18th October 2011; https://www.itri.co.uk/index.php?option=com_mtree&task=att_download&link_id=52972&cf_id=24

In summary;

- While a de-facto embargo did occur on 3T's in some areas of DRC and the adjoining countries, after six years of hard work by stakeholders to ensure the availability of credible supply chain traceability and important risk information via the iTSCi programme, there is no longer any widespread embargo;

- All legitimate mineral businesses both in Africa and around the world will incur some costs associated with their responsibilities to avoid human rights abuses and conflict financing, however, there is no evidence to suggest that this cost has put operators out of business. From data on iTSCi membership it would appear the opposite is true as the less legitimate operators are those now less likely to remain in the 3T supply chain;

- Through the evaluation of iTSCi incidents detailed data is available on the extent of armed group control and human rights abuses in the 3T sector, as well as on a range of other important risks. This data shows the low level of serious human rights and conflict issues around iTSCi monitored areas, and also shows that many positive outcomes on improved security, governance and responsible company actions have been achieved;

- The vast majority of interests in the 3T sector, are, and have always been local or foreign interests with a long history of association with the region. There is no evidence of any increase in any 'less benign' interests in the mineral trade, while there is evidence on the increasing engagement of US based companies;

- While Section 1502 of Dodd Frank was not well conceived and did create significant harm, the situation in the 3T sector has overcome these various hurdles and is now on a positive trend. On balance, repeal of the Rule would now have further negative, rather than positive effects.

Please feel free to request any further details or clarification that you may require.

Yours sincerely,

Kay Nimmo
Manager of Sustainability and Regulatory Affairs, ITRI Ltd

ANNEX 1

Attachment regarding *'iTSCi implementation 2011-2016'*

Also available online https://www.itri.co.uk/index.php?option=com_mtree&task=att_download&link_id=55647&cf_id=24

ANNEX 2

Attachment regarding *'iTSCi Incidents and Outcomes 2011-2016'*

Also available online https://www.itri.co.uk/index.php?option=com_mtree&task=att_download&link_id=55669&cf_id=24

iTSCi implementation 2011-2016:
Pushing back the de-facto embargo by enabling conflict-free trade

February 2017

Much has been said about the de-facto embargo on central African 3T minerals created by early responses to the US Dodd Frank Act by users of tantalum, tin and tungsten. This situation appears to be of particular importance in the current debate around the 'conflict minerals' section 1502 of Dodd Frank and we feel it is important to present information on both the causes and timescales of previous embargo issues, as well as the lack of any extensive current problem.

The de-facto embargo was a predictable and real effect brought about by a) lack of consideration of practical challenges and the obvious need for a phased implementation by proponents of the Act, as well as b) the understandable desire to avoid SEC reporting costs and 'not conflict-free' product declarations by end users of the metals, and c) the absence of any plan for financial or other practical support for the upstream industry-led solution from the regulating US government. Now, almost six years later, with the iTSCi joint industry due diligence programme already in place in almost every relevant 3T mining area in the region, and with the capability to rapidly extend to other sites as financing allows, there is no longer a widespread de-facto embargo.

The iTSCi programme was first devised and piloted prior to the Dodd Frank Act and adapted to that, and to reference the recommendations of the OECD due diligence guidance once that was finalised in late 2010. This prior experience enabled us, despite limited financing, to rapidly roll out implementation in Rwanda and the Katanga Province of the DRC as soon as the Conflict Free Smelter Programme (CFSP) audit deadline for 100% traceable mineral was implemented in April 2011. As a result, there has never been any period of de-facto embargo affecting either Rwanda or DRC-Katanga.

Other areas were not so lucky and did suffer from a de-facto embargo since there was insufficient time to implement the iTSCi solution. The Kivu's and even Maniema province in the DRC were considered too high risk for the downstream supply chain and many additional challenges had to be overcome as a result. Burundi and Uganda were of lower profile to the international community.

In late 2013, recognising the harm being done by the de-facto embargo in the Kivu's, the Dutch Ministry of Foreign Affairs (MFA) brought together a group under the Conflict Free Tin Initiative (CFTI) to provide vital moral and tangible financial support for iTSCi which enabled our return to one mine in the high risk area of South Kivu. From this breakthrough, we continued to expand and scale up our activities in other high risk areas across the Kivu's and as a result, push-back the de-facto embargo in those provinces.

Financing scale-up from upstream industry funds was a challenge and an important limiting factor, particularly in other areas where 3T mineral production tends to be lower. Nevertheless, when finances were available from the local industry, their direct customers or the MFA, iTSCi was able to make progress, gradually extending to Burundi and Uganda, step-by-step resolving the prevailing embargo situation in those locations. Now in 2017, iTSCi has a presence in almost every active 3T mine in the DRC, Rwanda, Burundi and Uganda.

Contact kay.nimmo@itri.co.uk for comment or questions

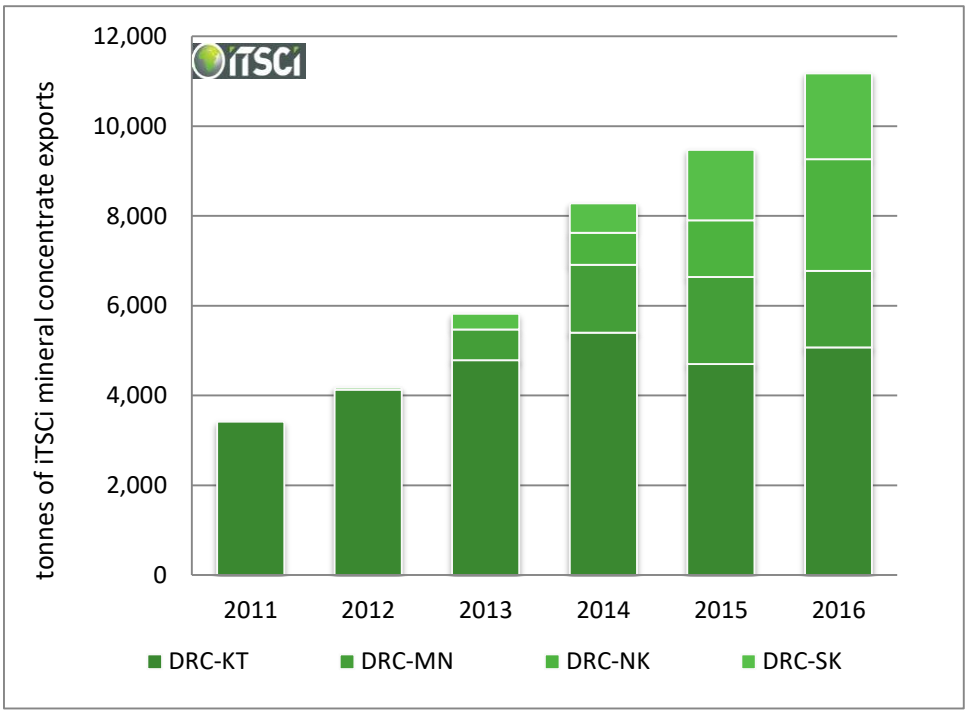
Data on exports of 3T mineral concentrates managed through the iTSCi programme over the 2011-2016 period are shown in the charts below. These demonstrate earlier embargo in some (not all) locations, and the resolution of this embargo in recent years. The drop in exports in 2015-2016 resulted from the severely negative global market situation for commodities from which activity in the mineral sector is now gradually recovering - following which the future prospects for an iTSCi enabled conflict-free 3T mineral sector seem very positive.

iTSCi is a unique, innovative and practical solution to the challenges of the 3T mineral sector in the central African region. The iTSCi field teams continually monitor for any potential risks relating to financing of armed groups or human rights abuses and have brought about significant positive change. With the current presence of iTSCi in almost all important 3T mining and trading areas there is no longer widespread embargo despite the continuation of the 'conflict mineral' provisions of the Dodd Frank Act.

Further iTSCi data can be found online at https://www.itri.co.uk/information/itsci/data-and-field-reports

END

Chart 1: Annual DRC exports of 3T minerals through the iTSCi programme per province, showing growth in conflict-free trade each year.



Contact kay.nimmo@itri.co.uk for comment or questions

Chart 2: Annual DRC exports of 3T minerals through the iTSCi programme per province, showing de-facto embargo in DRC-Maniema, North and South Kivu throughout 2011-2013, but growth in conflict-free minerals since that time.

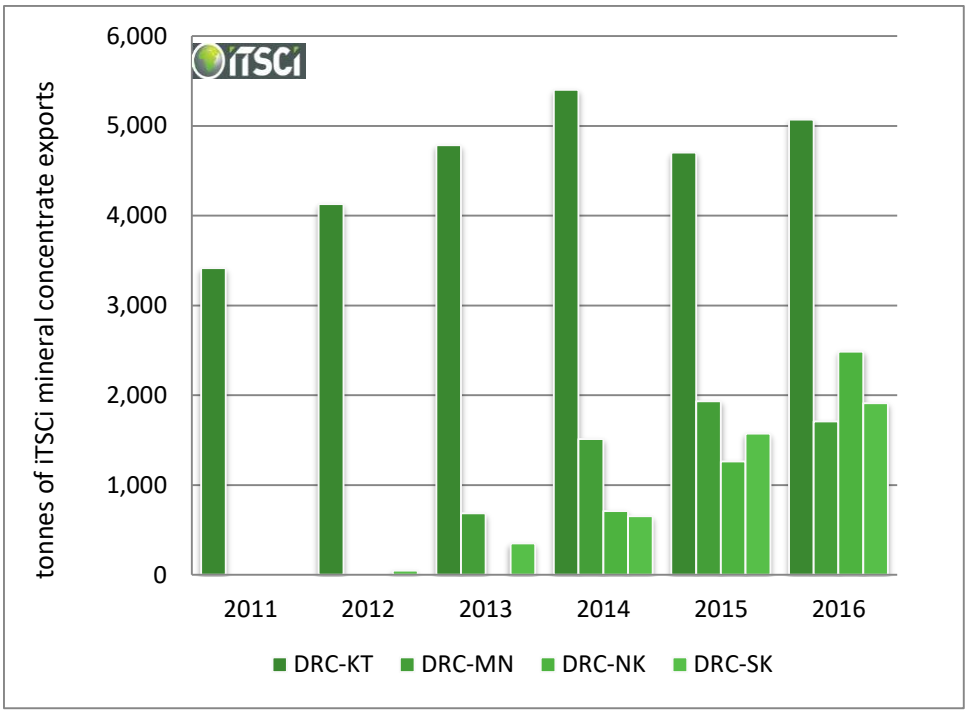
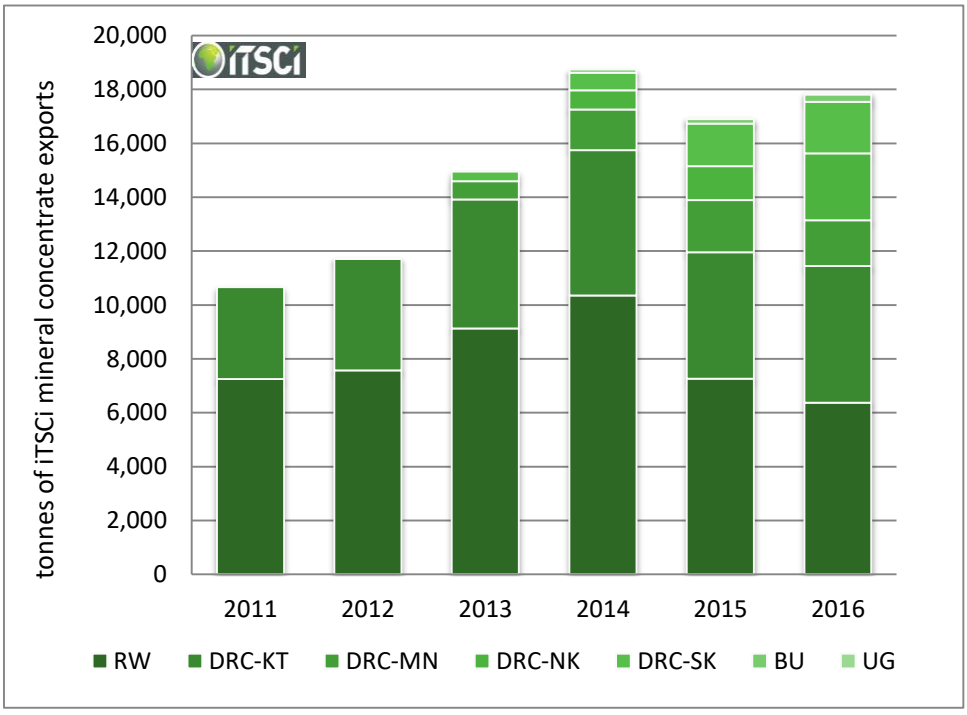
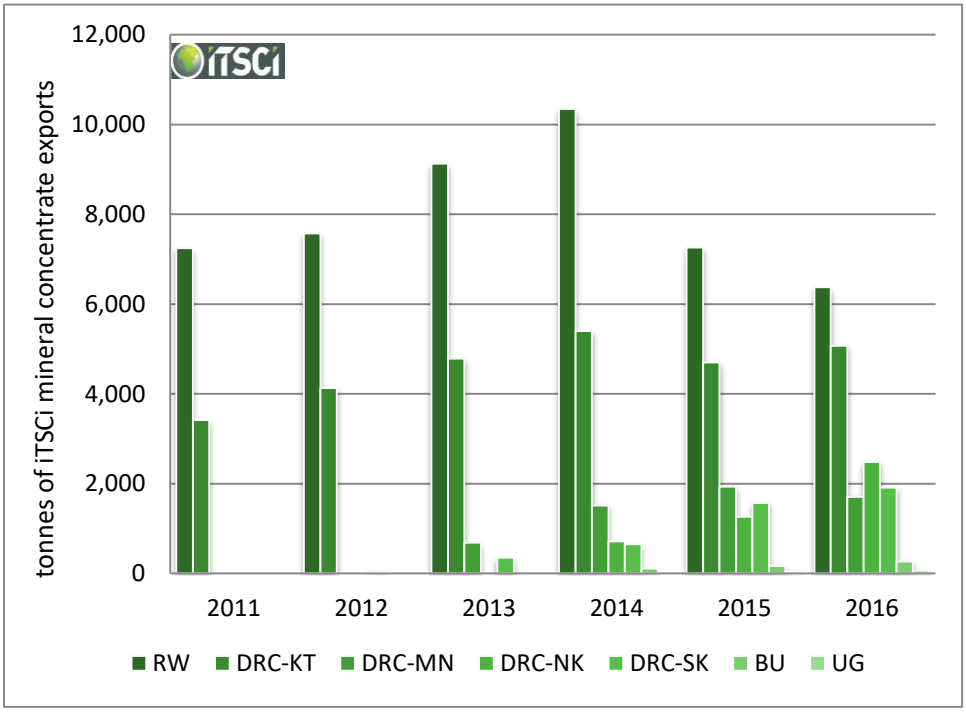


Chart 3: Total annual 3T mineral exports through the iTSCi programme, including Burundi, DRC, Rwanda and Uganda.



Contact kay.nimmo@itri.co.uk for comment or questions

Chart 4: Annual 3T mineral exports through the iTSCi programme per area, including Burundi, DRC, Rwanda and Uganda.



Contact kay.nimmo@itri.co.uk for comment or questions

iTSCi PROGRAMME INCIDENTS AND OUTCOMES: 2011 TO 2016

March 2017

SUMMARY

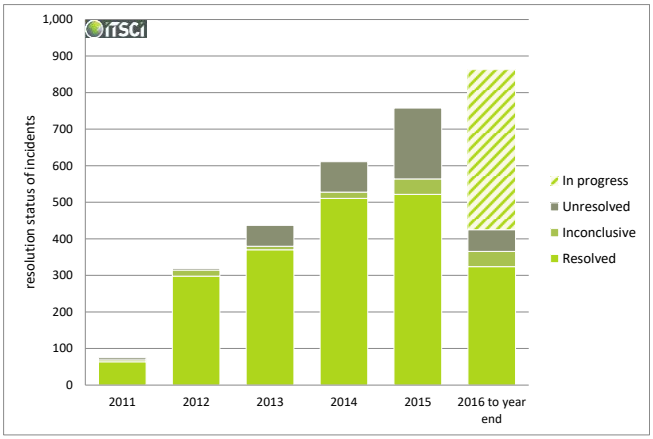
The iTSCi Programme is designed to support the effective application of OECD recommended due diligence by companies throughout the 3T upstream supply chain. As such, the provision of supply chain traceability, identification of risks, facilitation of risk resolution and various forms of independent evaluation by iTSCi enables companies to take appropriate decisions to trade responsibly and avoid financing of conflict or support to human rights abuses as well as to respond to other identified risks.

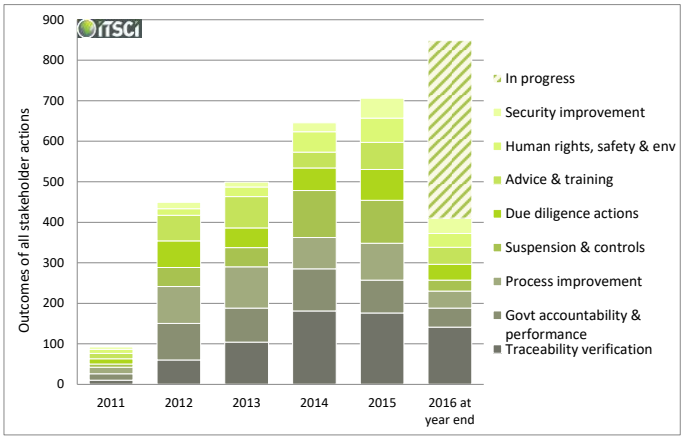
This report focuses on data from the iTSCi incident management system which has been generated over six years of implementation from 2011 to 2016 by our extensive on-the-ground teams and knowledgeable reporting officers. The iTSCi teams currently undertake around 400-500 site visits per month to mining areas, transport routes and processing facilities in Burundi, DRC, Rwanda and Uganda, helping to monitor the situation around trading of almost 18,000 tonnes of mineral concentrate from up to 1,341 mines.

iTSCi receives information from multiple sources including field agents, whistle-blowers, local NGO's and UN reports, which, if confirmed as plausible, is then recorded and reported to companies and other stakeholders for joint discussion and follow up. From 2011 to 2016 iTSCi recorded and monitored **3,063 individual incidents**, which include potential risks in the vicinity of iTSCi locations even if risks do not ultimately impact directly on minerals being traded. One incident may involve a combination of issues, at differing levels of seriousness and 3,325 instances of risk categories were recorded in total.

Each year, the numbers of incidents and positive outcomes has risen as a result of both the increased scale and scope of iTSCi over time, and the progress in awareness and engagement of all stakeholders around due diligence and the importance of avoiding conflict, human rights abuses and other risks. As iTSCi has continued to grow and be implemented in increasingly complex high risk areas this has been reflected in increases in recorded security related risks. Nevertheless, in and around iTSCi implementation areas, across four countries, and in six years;

- Instances of serious human rights abuses were very low, averaging 2 per year;
- Potential risks from non-state armed groups or unidentified bandits totals 22, or 0.7% of incidents;
- Potential or actual interference, including taxation, by state security services was recorded 62 times, representing 2% of incidents.





iTSCi strongly encourages and follows up on the resolution of risks and, while a number of incidents remain under investigation (in progress), or are inconclusive (with insufficient evidence), a high number are resolved by multi-stakeholder actions with positive outcomes. While our internal programme management systems include 58 potential outcomes across 4 stakeholder types, these are aggregated for reporting.

It is the co-ordinated combination of actions by stakeholders that achieves successful and progressive improvement in the supply chain, and over the course of implementation, iTSCi directly contributed to more than 40% of the resolutions, followed by government actions (23%), companies (16%) and civil society. In total, outcomes achieved by all stakeholders for 2011 to 2016 include;

- Traceability verification (24%)
- Government accountability and improved performance (15%)
- Process improvements in due diligence and systems (15%)
- Suspension and controls of mines or companies (12%)
- Due diligence actions on specific supplies (11%)
- Advice and training by iTSCi or others (11%)
- Human rights, safety and environmental improvements (7%)
- Security improvements by state and private services (5%)

Of outcomes associated with companies, around 70% were related to due diligence actions and improvements in processes for managing risks. Of those associated with governments, 40% of outcomes achieved improved government performance, plus significant numbers of actions on suspensions, arrests, or direct action from the command structure of state services.

Some incidents do remain partially or completely unresolved and in the majority this is due to lack of engagement by one or more relevant responsible party, whether company, government or others, however around 25% of all unresolved incidents are caused by the continued lack of international agreement on a method for disposal of seized minerals or stocks.

The focus of iTSCi implementation is on risks discussed in the OECD Annex II, nevertheless, the incident system is also used to record and report progress on additional activities including for example, around health and safety. It is notable that almost one quarter of positive outcomes from company actions relate to improvements in safety around mines, and contributions to the community following accidents. iTSCi is able to work on training and specific actions designed to bring about further improvement in safety at pilot sites supported by and participating in the Dutch Ministry of Foreign Affairs 'Scaling Up Mineral Traceability' project, but additional resource would allow more to be done.

This is a public summary report. A significant additional level of detail and analysis is utilised for internal programme management, some of which will also be available in due course to those companies, authorities, NGO's and other partners who participate in, or contribute in a positive manner to the continued progress and financing of the iTSCi programme via the available and existing routes.

Contact details

For suggestions or enquiries please contact ITRI Ltd the Secretariat of the iTSCi Programme at Unit 3, Curo Park, Frogmore, St. Albans, Herts AL2 2DD, UK, or via email to itsci@itri.co.uk

Thanks go to the iTSCi reporting teams for their commitment to reviewing such a large amount of information and their continued hard work.

iTSCi INCIDENTS AND OUTCOMES: REVIEW OF 2011 TO 2016
March 2017

1. INTRODUCTION TO INCIDENT REPORTING

The iTSCi Programme assists companies to implement the recommendations of the OECD due diligence guidance through the provision of supply chain traceability, identification of risks, facilitation of risk resolution and various forms of independent evaluation. These activities provide information which enables companies to take appropriate decisions on risks and therefore for the entire supply chain to trade responsibly.

As described in the seven page Appendix to the OECD Due Diligence Guidance, the essential enabler for due diligence is the presence of an on-the-ground team to continuously monitor and evaluate risks, discuss with all relevant stakeholders, and report on mitigation actions and outcomes. The Appendix recommends that field teams have appropriate competence to provide reliable and independent information based on credible evidence in order to fully understand the complex issues which exist in high risk environments. The teams are recommended to have an understanding of the general political and legal context, specific businesses and supply chains, geological and mineral processing techniques, due diligence, security and human rights expectations in order to properly manage risks.

iTSCi provides expert on-the-ground teams through our field partner Pact. These teams currently operate with around 130 staff across the central African region and the teams make around **400-500 site visits per month** to mining areas, mineral processing and storage facilities and along transport routes. The field teams are supported by qualified multi-lingual personnel, and incident information is distributed through the iTSCi secretariat to members, governments, other partners and the public. Decisions on critical high level incidents such as conflict issues requiring suspension of mines or operators are made by the iTSCi Governance Committee while the majority are resolved through local stakeholder discussions. For this purpose, iTSCi facilitates the set-up and operation of local stakeholder meetings, as well as funds and provides an additional whistleblowing system so that any member of the public can contribute to risk reporting. Follow-up and resolution of every single incident is our goal although various practical and systemic challenges can sometimes make this difficult.

iTSCi receives information from multiple sources including field agents, whistle-blowers, local NGO's and UN reports, which, if confirmed as plausible, is then recorded through the iTSCi incident management process. These identified supply chain risks are reported to companies and other stakeholders for joint discussion and follow up. iTSCi focuses on incidents relating to conflict and other topics described in OECD Annex II, but also includes additional issues such as occupational health and safety.

Since 2011, iTSCi has recorded and managed a total of **3,064 incidents**, across 1,341 mine sites in four countries as well as across transport routes within Africa, and internationally to receiving smelters. These incidents demonstrate effective risk identification and management in the trade of more than 90,800,000 kg of mineral concentrate, traded through more than 5.4 million in-region business transactions.

In order to measure and report the outcomes of this important work, as well as evaluate opportunities for further improvement in the systems, iTSCi has reviewed all incidents which were opened in the period 2011-2016 and the results are described in this report.

2. METHODOLOGY OF INCIDENT MANAGEMENT AND REVIEW

iTSCi and its field operator Pact have developed the iTSCi incident management process to be a practical and effective system implementing the theoretical recommendations of the OECD due diligence guidance. Over the six years of programme growth we have taken into account direct experience and learnt vital lessons which allow iTSCi, our members, governments and partners to achieve continued progress in managing risks related to conflict, human rights and other key issues.

Both the incident categorisation and reporting system have evolved significantly over a few short years and iTSCi has recently undertaken a review of past data to update reports to align with currently used definitions as well as to gain

further insight into issues, trends and outcomes achieved through our system. These current processes and definitions are generally described below in order to provide background information;

Categories

Incidents are evaluated as relevant to one or more key issues under the **categories** of; due diligence, chain of custody, corruption, armed groups and security forces and human rights and other concerns. Our primary focus is on establishing a supply chain free of human rights abuses and conflict financing, in particular with reference to the scope of OECD Annex II. Other activities stretch beyond topics mentioned in the OECD Annex II such as labour, health and safety, or mining in protected parks and these are recorded and being addressed in pilot actions supported through the Dutch Ministry of Foreign Affairs project on *'Scaling up Mineral Traceability*[1]*'.* We continue to seek resources to expand these additional activities to wider areas of implementation. In total iTSCi has defined 49 sub-categories of incident in order to sufficiently classify the many potential risk types. An overview of the process as well as the categories is provided in Annex 1.

Levels of seriousness

In addition to categories of type, incidents are allocated a level of seriousness. There are 3 **levels**, where 3 is ranked the lowest, and 1 the highest level of seriousness. Priority issues requiring immediate and high level attention and possible disengagement in the supply chain according to OECD Annex II are classified as Level 1. Low level incidents relating to mistakes or lack of capacity or training are considered Level 3, with intermediate or repeated issues as a mid-category of Level 2.

Status

iTSCi investigates the causes of incidents to help determine, advise and facilitate discussion between stakeholders on mitigation activities and to focus on where efforts are needed to achieve improvements. As per OECD recommended timescales for mitigation, incidents may remain **open** for up to six months while the iTSCi team and/or involved stakeholders are verifying information, monitoring the situation and/or implementing mitigation actions but after that time will be closed off and allocated a final **status** chosen from one of the three possibilities associated with closure below:

- **Resolved** –The iTSCi team and/or involved stakeholders have agreed and implemented actions which have resulted in mitigation.
- **Unresolved** – The involved stakeholders may not have agreed, or more commonly have not effectively implemented mitigation actions.
- **Inconclusive** - The iTSCi team do not find sufficient evidence to support an allegation or need for mitigation.

Outcomes

Following closure of each incident, the team identifies whether positive **outcomes** were achieved, such as sanction by authorities, due diligence improvement by companies, or procedural improvements at iTSCi. It is also noted whether expected outcomes were not achieved due to lack of engagement from the relevant stakeholders. For the purpose of this latest overall review, stakeholders were analysed based on their ability and success in influencing, shaping and improving final outcomes of reported incidents. Outcomes were identified for four core groups; companies, authorities, civil society and iTSCi.

In total iTSCi has defined 58 potential outcomes across the 4 stakeholder groups in order to enable trends to be identified. For this public summary, outcomes have been aggregated into fewer outcome groups in order to limit the complexity of reporting.

Other metrics

Further analysis is also carried out internally in order to determine the percentages of incidents involving tagged mineral, the extent of intentional or accidental causes of incidents and the most commonly recommended actions for each stakeholder. This enables us to measure to precise levels, for example, how many due diligence incidents were due to companies refusing to provide requested information, or how many human rights incidents related to gross human rights abuses. These provide extensive additional information which is not discussed in this general initial public report.

[1] Please see http://www.pactworld.org/projects/scaling-itsci

3. CONTEXT RELEVANT TO INCIDENT NUMBERS

iTSCi has always used the OECD guidance as our primary reference, taking an inclusive approach which accepts that risks exist, while focusing on credible and accurate reporting and progress in resolution. The incident reporting process is therefore a vital part of a successful approach to due diligence. Almost all improvements achieved through iTSCi result from the incident system rather than from initial or infrequent audits of mines or companies.

Increases in incident numbers are in themselves positive since they demonstrate;

- Increased understanding of conflict, human rights issues and due diligence
- Increased awareness and engagement in the iTSCi systems
- Improvements in efficiency and effectiveness of iTSCi procedures
- Increased ongoing monitoring, better resolution and more outcomes
- Increased transparency of risks to the supply chain

Increases in the numbers of mines, companies and tonnages being traded under the iTSCi programme can also lead to further increases in the numbers of risk incidents recorded and managed due to the increased and extensive scale of activities.

The iTSCi Programme was piloted in South Kivu in 2010, introduced in Rwanda and Katanga in 2011, and gradually extended to other provinces of the DRC and other countries as funding became available either from member company investments or donor funders, specifically the Development Bank of Southern Africa (DBSA) and Ministry of Foreign Affairs of the Netherlands (MFA). As a result of this step-by-step scaling-up process simple **year-on-year comparisons of incident numbers and outcomes are complex and not recommended** without an awareness and understanding of other related factors that are essential for informed and meaningful comparisons or conclusions. Some key comments on this important context is provided below.

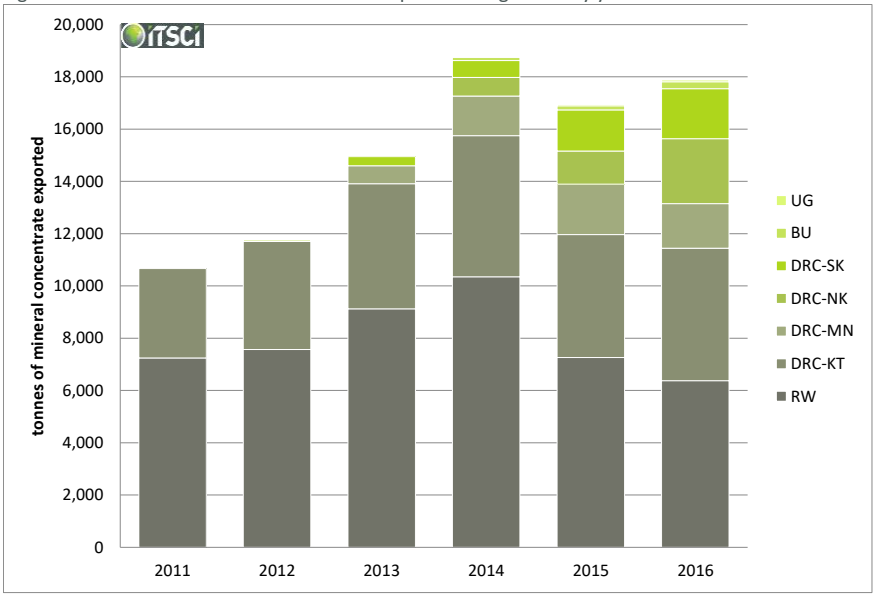
Tonnage of mineral

The inclusion of more mineral trading within iTSCi can result in more incidents being recorded. Annually, over 10 thousand kilograms of 3T mineral concentrate have been exported collectively from the region through iTSCi, and in total for the period 2011 to 2016 just over 90 thousand kilograms of 3T minerals were exported. Table 1 and Figure 1 below provide further information. Tonnage figures are themselves heavily influenced by other external factors such as metal prices, cash flow in the supply chain, logistics, weather, policies adopted by the government and so on which impact, and can only be followed and understood at very local level. The information below should therefore only be used for the purpose of a general understanding of the level of business activity and no other conclusions should be drawn by the reader.

Table 1: Tonnes of 3T mineral concentrate exports through iTSCi by year

iTSCi concentrate exports (kg)	Burundi	DRC	Rwanda	Uganda	TOTAL
2011	0	3,414,813	7,245,500	0	**10,660,313**
2012	0	4,176,948	7,569,677	0	**11,746,625**
2013	0	5,818,680	9,126,261	0	**14,944,941**
2014	110,147	8,275,609	10,349,304	0	**18,735,060**
2015	164,325	9,471,534	7,258,268	44,668	**16,938,795**
2016	265,290	11,171,689	6,371,030	64,483	**17,872,492**
Total	**539,762**	**42,329,274**	**47,920,039**	**109,151**	**90,898,225**

Figure 1: Tonnes of 3T mineral concentrate exports through iTSCi by year



The volumes of minerals exported were badly affected by very low tin and other commodity prices which fell during 2015 to a low point in early 2016. Low prices discouraged activity reducing mining and trading to levels well below what would be expected for the large geographic coverage of the programme. Some recovery was seen in 2016 and further potential improvement is hoped for in 2017.

Numbers of mines

The inclusion of more mines within iTSCi can result in more incidents being recorded. Over the course of implementation of iTSCi the scale of the programme has continuously grown as requests for inclusion of new areas from local and international businesses and other stakeholders have been received, and financial resources for that scale up have become available. The programme is as inclusive as possible in order to ensure an industry and region wide solution is in place. We do not choose to only support more profitable mines larger mines but also support artisanal mines, even down to the very smallest scale, if identified and within an active mining territory.

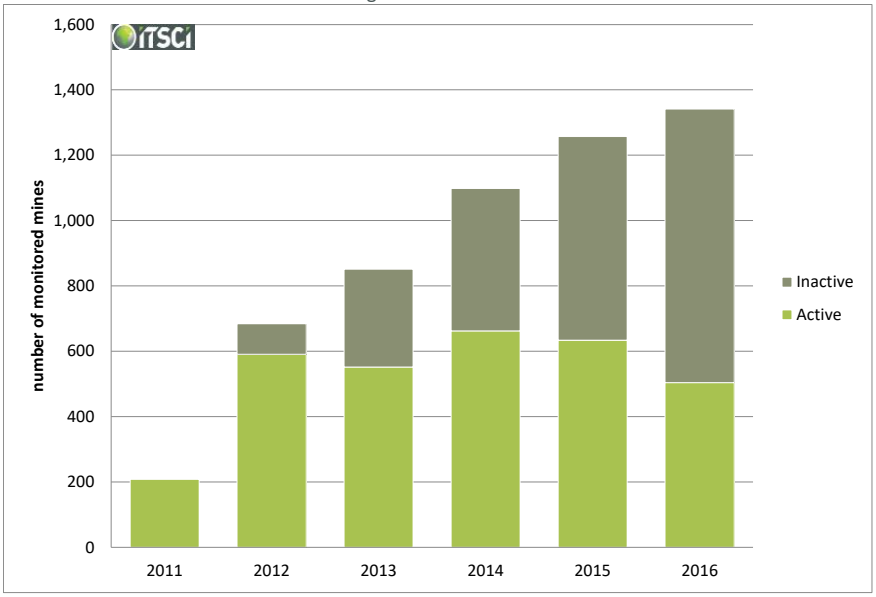
iTSCi works with local authorities to visit and evaluate the situation at mines, record appropriate naming, and if the security situation allows for approval, to train local authorities in implementation of tagging and traceability. Table 2 provides information on total numbers of mining areas within the scope of iTSCi at the end of each year. Note that iTSCi mine approval differs from official DRC validations and the figures for each are not easily compared.

Table 2: Number of iTSCi monitored mining areas

iTSCi mining areas (active & inactive)	Burundi	DRC	Rwanda	Uganda	TOTAL
2011	0	113	95	0	**208**
2012	0	186	498	0	**684**
2013	0	213	638	0	**851**
2014	31	266	801	0	**1,098**
2015	34	346	873	4	**1,257**
2016	36	409	891	5	**1,341**

The activity around each mining area can change very rapidly as local weather, security, cash flow or market demands dictate and mines can become inactive, and then re-activate within short periods of time. It is one of the tasks of the iTSCi field staff to continually follow these developments to ensure that mining activity/inactivity at all known sites is recorded, and that all inactive sites, as well as currently active sites, are regularly monitored for risks. Figure 2 presents information split by active and inactive mines at that particular point in time.

Table 2: Number of iTSCi monitored mining areas



The significant numbers of inactive mines arise primarily from the current situation in Rwanda where at the end of 2016 there were 207 active mines, and 684 inactive mines i.e. 77% of Rwandan mines were inactive. This is partly related to business issues, but in the majority due to a change in government policy during 2015 to promote formalisation and fully implement the mine licencing system. 'Inactive' in this particular local scenario means that a mine does not have an exploitation permit from the government, and the government does not therefore implement traceability at the site. Unfortunately, it does not mean that the site is in practice inactive and illegal mining can continue when there is limited control or prevention measures by the authorities. The decrease in active mine numbers in Rwanda has not led to an equal decrease in incident numbers.

Numbers of participating companies

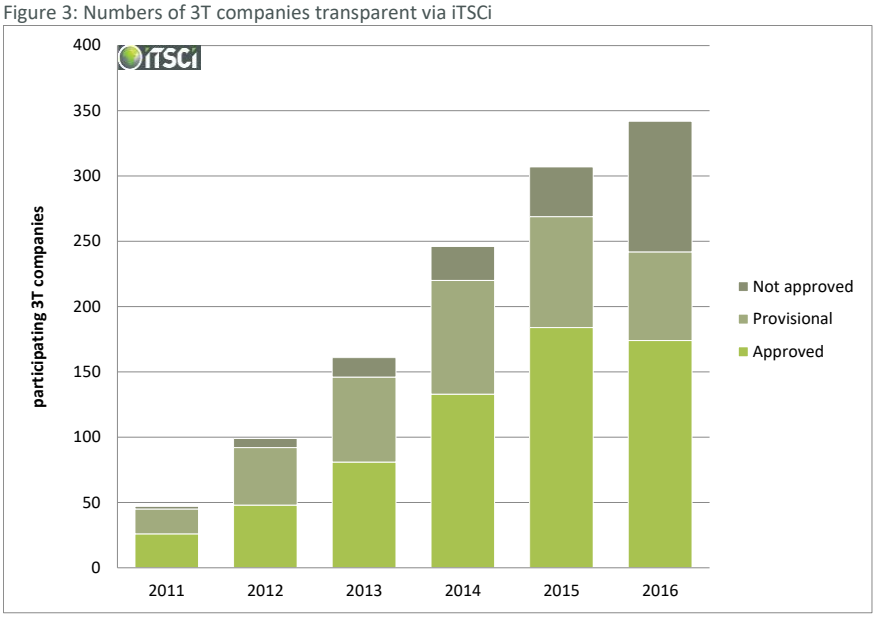
The inclusion of more operators within iTSCi can result in more incidents being recorded. While mines and related cooperatives and companies are identified through the mining area evaluation mentioned above, companies further along the supply chain who are key to the application of due diligence are requested to become iTSCi participating members. The iTSCi membership system is important to enable an understanding of the complete upstream supply chain from mine, local processor, exporter, trader(s) to smelters and make the supply chains appropriately transparent in order to allow due diligence, while retaining essential commercial confidentiality.

Submission of an application together with relevant documentation provides an initial **provisional** membership, but only after subsequent successful independent evaluation by a third party can a company achieve **approved** membership. It is at this point that the company begins to trade as a full participant of the programme. As can be seen in Table 3, at the end of 2016, there were 68 provisional members and 174 approved members.

Table 3: Numbers of 3T companies transparent via iTSCi

iTSCi companies participating	Approved	Provisional	Not approved	Total
2011	26	19	2	**47**
2012	48	44	7	**99**
2013	81	65	15	**161**
2014	133	87	26	**246**
2015	184	85	38	**307**
2016	174	68	100	**342**

Figure 3: Numbers of 3T companies transparent via iTSCi



There are **342** companies who have made an application to participate in iTSCi and whose willingness and capacity to apply due diligence has been evaluated. Of this total, a number have decided to withdraw, some applications have been failed, and some companies have been suspended or expelled from participation, including for performing insufficient due diligence. In total 100 companies are currently **not approved**.

Figure 3 demonstrates that the number of approved participants increased steadily, especially from the start of the programme but that the number is now less changeable as all 3T exporting areas are within the scope of activity. It is also positive to note that numbers of participating approved companies dropped in 2016 as numbers not approved increased. As this trend continues, better performing companies with better internal management systems will be expected to makes up a greater portion of the participating companies.

4. INCIDENT NUMBERS AND TYPE

Incident numbers

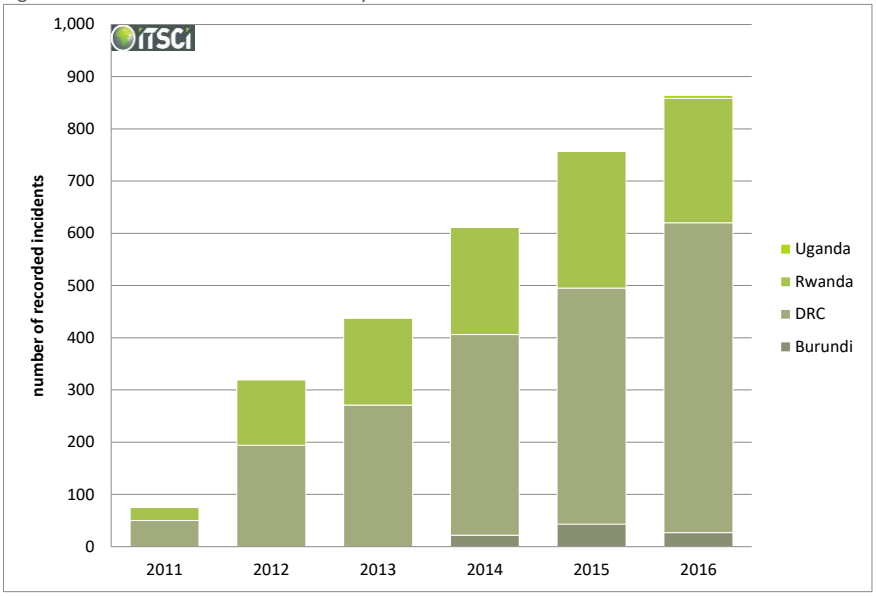
Table 4: Numbers of incidents recorded by iTSCi

iTSCi incident numbers	Burundi	DRC	Rwanda	Uganda	TOTAL
2011	0	50	25	0	**75**
2012	0	194	125	0	**319**
2013	0	271	166	0	**437**
2014	22	384	205	0	**611**
2015	43	452	262	1	**758**
2016	27	593	238	5	**863**
Total	**92**	**1,944**	**1,021**	**7**	**3,063**

The iTSCi incident team recorded **3,063 incidents** between 2011 and 2016 inclusive. As a result of the ever increasing number of mining areas covered (whether active or inactive), as well as a drive to achieve scaling up in the more challenging areas such as South and North Kivu during the more recent years of the programme, incident numbers overall continued to increase year-on-year. Increases are also due to the improved incident identification processes in place, including support for local whistleblowing introduced in 2016. The number of incidents in Burundi and Rwanda dropped in 2016 for the former due to low activity and improved understanding of traceability, and the later relating to some extent to the more significant scale of drop in mineral exports.

It should also be noted that iTSCi records risks that are in the vicinity of mines or transport routes whether or not they have a direct impact on the 3T supply chain both for future reference and due to the need to track trends that may result in a 3T risk at a later date. Examples would include risks relating to non-state armed groups attracted to gold mining areas close by those of 3T's. Operating in a less secure environment will in itself lead to the recording of more incidents even though the iTSCi processes help to avoid those insecurities having any direct impact on the mineral supply chain.

Figure 4: Number of incidents recorded by iTSCi



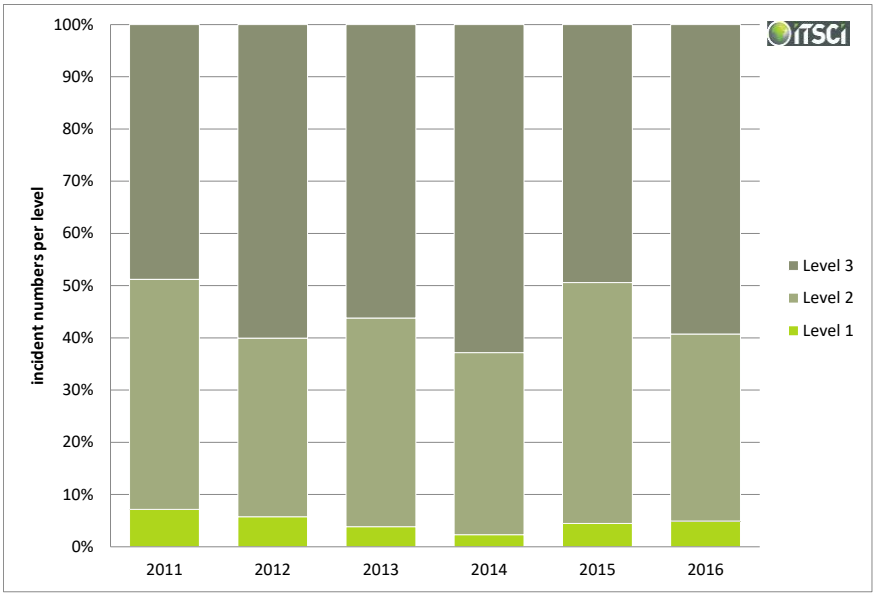
Incident levels

As noted above, the incident team has recently reviewed all incidents in order to apply the currently defined incident levels to all previous incidents from 2011 onwards. This will allow for further analysis of trends and drive improvements in due diligence tailored to specific areas. Data is provided in Table 5 and is also shown in Figure 5. In general terms, the split of Level 1, 2 and 3 incidents has remained fairly equal during the scaling up of the programme. The majority of serious Level 1 incidents were mainly in Katanga, DRC during the early years, then dropping as security improved in that location, followed by an increase in more serious incidents in 2015-2016 where more mining areas in the higher risk Kivus' were included in the scope of work. In general, Level 1 incidents make up around 5% of the total.

Table 5: Number of iTSCi recorded incident at each level of seriousness

iTSCi incident levels	Level 1	Level 2	Level 3	TOTAL
2011	6	37	41	**84**
2012	20	119	209	**348**
2013	19	197	277	**493**
2014	15	228	411	**654**
2015	37	383	410	**830**
2016	45	328	543	**916**
Total	**142**	**1,292**	**1,891**	**3,325**

Table 5: Number of iTSCi recorded incident at each level of seriousness



Incident categorisation

The iTSCi incident categories have changed and developed over time in order to implement improvements. During this recent review process the incident team have re-evaluated all available information in order to apply the currently defined categorisation to all previous incidents from 2011 onwards. The five main categories and the recorded incident numbers of all levels arising from this review are shown in Table 6.

Note that an individual incident can have more than one categorisation, for example bribery relating to mis-use of tags could be allocated both a corruption and a chain of custody categorisation. As a result, the count of incident categories will always exceed the count of individual incidents in the above section.

Various localised trends might be observed in more detailed data, for example more incidents on traceability might be expected at an early stage in implementation which can be reduced by training, for example, traceability incidents in Katanga in 2016 were around one quarter of those at a peak in 2014. Expectations on understanding of due diligence by companies also rises over time and this is a driver behind the rising numbers of due diligence related incidents.

The priority of iTSCi is to successfully identify security and human rights related incidents that are the primary focus of attention for 'conflict minerals' compliance and Figure 6 presents figures on those categories at all levels of seriousness. Security incidents relating to both non-state armed groups, and illegal interference in the mineral trade by state security services has recorded rises, however, these rises are in the main related to factors around how iTSCi was operating, and a general improvement in the incident system over time rather than additional issues directly impacting to mineral supply chain. Influencing factors are;

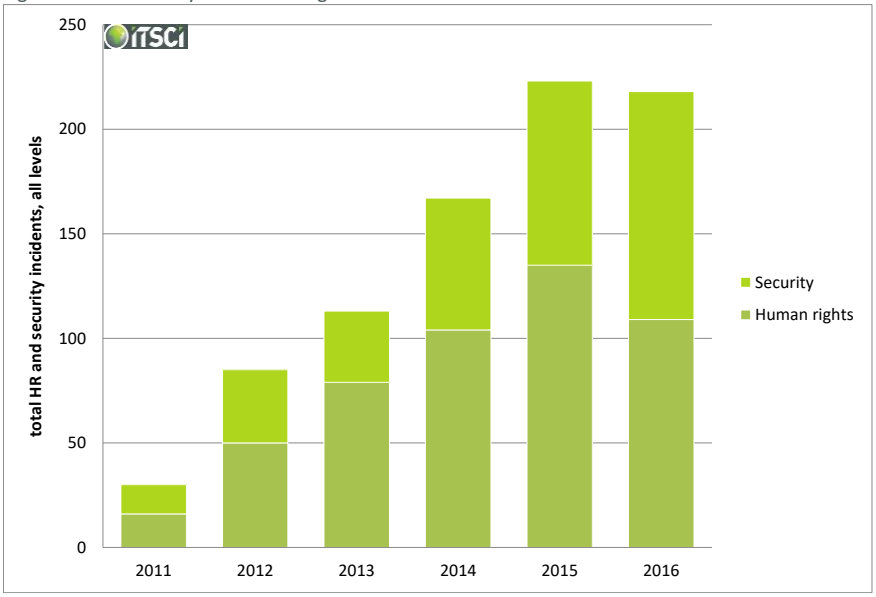
- The expanding scope and scale of programme implementation to higher risk areas with more complex local circumstances, particularly during 2015-2016;
- A general and progressing improvement in understanding of the OECD recommendations locally, leading on to more reporting and greater transparency on risks;
- The introduction of an iTSCi whistleblowing system in some areas in early 2016, and since rolled out further, which highlights more potential risks;
- Changes made to incident reporting procedures on security risks in more recent years made in order to ensure potential security issues within certain defined proximity of mining areas and routes are formally recorded.

Human rights issues which include topics such as protection of national parks, as well as key concerns such as child labour or threatening behaviour, have begun to reduce at all levels of seriousness as awareness raising, training and other activities have a positive effect. The majority of human rights incidents are health and safety incidents.

Table 6: Categories of incidents recorded by iTSCi

iTSCi incident categories	Human rights	Security	Corruption	Due diligence	Chain of custody	TOTAL
2011	16	14	7	0	47	**84**
2012	50	35	17	0	246	**348**
2013	79	34	39	3	338	**493**
2014	104	63	24	3	460	**654**
2015	135	88	22	31	554	**830**
2016	109	109	39	18	641	**916**
Total	493	343	148	55	2,286	**3,325**

Figure 6: iTSCi security and human rights incidents - **at all levels**



Overall, instances of serious, **Level 1**, gross human rights abuses at iTSCi monitored locations remain very low, with only a total of 13 incidents in 6 years of programme implementation, representing just 0.4% of those reported. The presence of non-state armed groups in the vicinity of implementation areas is also fairly low with a total of 22 instances at Level 1 in 6 years (0.7%). It should also be noted that these recorded incidents do not necessarily confirm that the non-state armed group interfered in mining or the mineral trade but that there was simply a risk that this could occur.

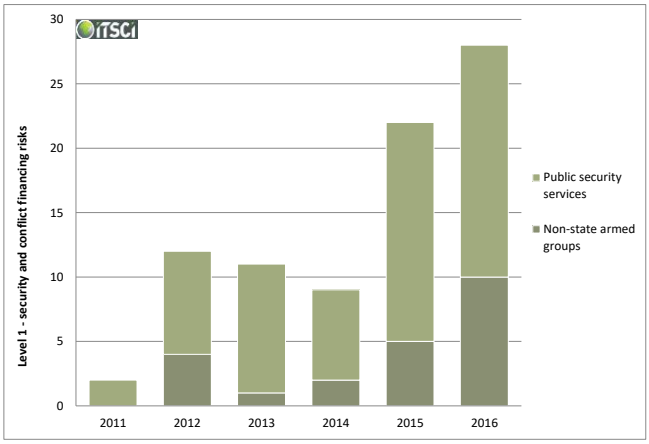
Table 7: iTSCi security and human rights incidents - **at Level 1, most serious**

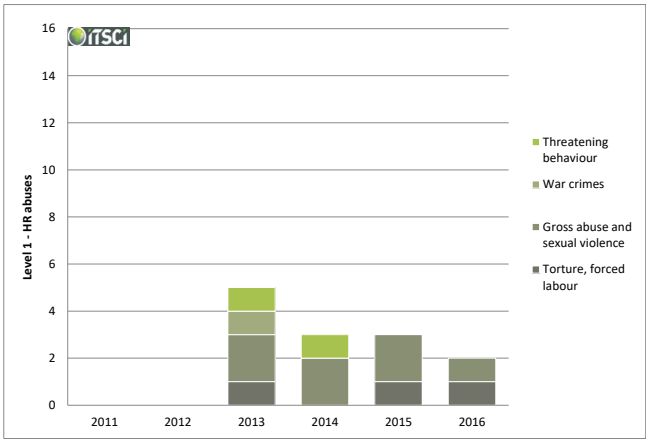
iTSCi incident categories	Non state armed groups	Public security services	Torture, forced labour	Gross abuse & sexual violence	War crimes	Threatening behaviour	TOTAL
2011	0	2	0	0	0	0	**2**
2012	4	8	0	0	0	0	**12**
2013	1	10	1	2	1	1	**16**
2014	2	7	0	2	0	1	**12**
2015	5	17	1	2	0	0	**25**
2016	10	18	1	1	0	0	**30**
Total	**22**	**62**	**3**	**7**	**1**	**2**	**97**

Potential or actual interference by state security services at Level 1 has been recorded 62 times over 6 years of implementation (2%). This data is shown in Table 7, with associated charts for Level 1 incident numbers found in Figure 7 below. These also show the trend of increased/better reporting of security incidents as described in the above section on incident categories.

No potential risks of human rights abuses were recorded in 2011-2012 since the reporting systems were still under development at that time and may not have captured all relevant instances. Note that since the absolute number of human rights abuses around iTSCi sites and transport routes was very low, with only up to 5 cases per year, small variation in recorded numbers do not represent any significant trend.

Figure 7: iTSCi conflict and human rights incidents - **at Level 1, most serious**





5. INCIDENT RESOLUTION AND OUTCOMES ACHIEVED

Incident resolution status

Table 8: Number of incidents recorded and their final resolution status

iTSCi incident status	Resolved	Inconclusive	Unresolved	In progress	TOTAL
2011	64	5	6	0	**75**
2012	298	17	4	0	**319**
2013	370	10	57	0	**437**
2014	511	17	83	0	**611**
2015	522	42	194	0	**758**
2016	324	42	59	438	**863**
Total	**2,089**	**133**	**403**	**438**	**3,063**

The iTSCi incident team has not only recorded 3,063 incidents between 2011 and 2016 but has facilitated discussion of each incident with relevant stakeholders, assisted in recommending actions, and followed up to encourage actions, record results and maximise positive resolution outcomes in every case. Low incident outcomes in 2011 rose sharply in following years as innovative and appropriate systems were developed, awareness of due diligence and procedures were improved.

Table 8 provides data on the final status of all incidents at the end of 2016. A total of 2,222 incidents (73% of total) have been **resolved** with progressive outcomes, or have been determined as unsubstantiated or otherwise **inconclusive** with lack of evidence of required information.

Incidents that have been opened in the prior 6 months but have not yet reached a conclusion for any reason are noted as **in progress** i.e. open incidents. This status is only relevant for 2016 incidents as all earlier incidents have already

been determined as one of resolved, inconclusive or unresolved. It is important to note that the 6 month limit for closure of incidents was introduced during 2015, and this is the factor which has created the lower numbers of 'unresolved' incidents in earlier years. Prior to this change in procedure incidents remained open for significant periods of time until resolved but this was a less successful approach.

Following the 6 month period, if sufficient action does not appear to have been taken, or other factors block final conclusion of the incident, the incident is considered **unresolved**. There can be various issues which hamper the resolution of incidents such as;

- lack of engagement of a company, authority or relevant person regarding potential actions
- a legal process which does not reach a final outcome according to normal procedures
- conflict affected minerals in the supply chain which cannot be disposed of due to the long term and ongoing lack of international agreement on how this should be achieved

Figure 8: Number of recorded incidents per year showing resolution status

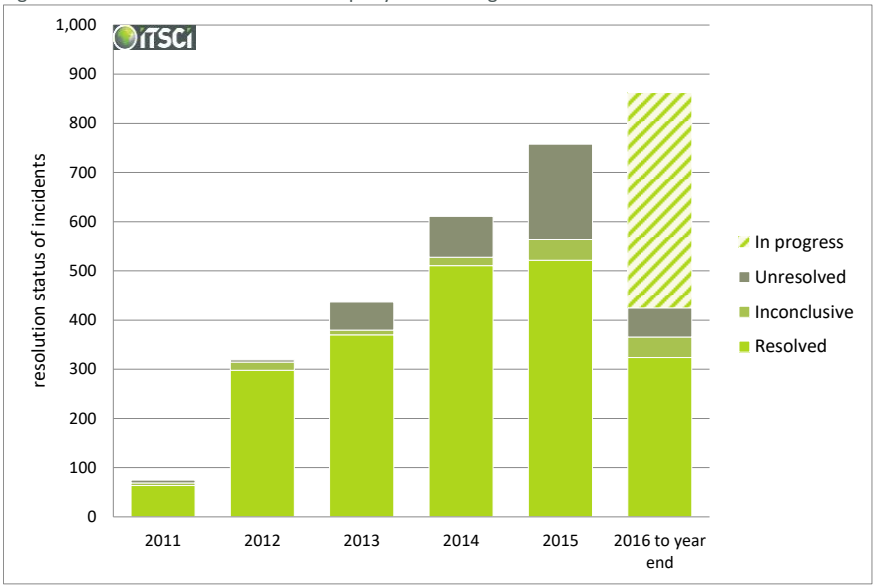


Figure 8 illustrates the increase in resolved incidents over the years of implementation, as well as a unexpectedly high number of unresolved incidents in 2015. Aside from the change in the 6 month closure process described above, many aspects of iTSCi operations were affected by the market slump during 2015-2016, and resolution rates during this time were also hampered by the closure or temporary inactivity of participating companies, lay-off of staff and similar issues. The necessity of budget cuts to the programme itself in 2015-2016 also led to reduced field staff numbers and some limits on non-essential travel which limited potential improvements in incident resolution numbers. Another factor reducing the successful resolution of incidents is the increase in illegal mining in Rwanda (for the reasons discussed in the earlier section on active and inactive mine numbers).

Figure 9 provides a comparison of the contribution made to resolution by different stakeholders (noting that more than one stakeholder may contribute to resolving any single incident). Over the course of implementation, iTSCi directly contributed to more than 40% of the resolutions, followed by government actions (23%), companies (16%) and civil society. It is very positive to observe the role of government and authorities and how this has also progressed over the years. Nevertheless, it should be noted that the extent to which authorities at local levels are engaged in incident resolution and positive influences can be quite variable and these differences can only be seen in the detailed data. Further progress to increase the extent of successful resolution of incidents could potentially be achieved through specific and targeted training programmes for local authorities and the local stakeholder committees however this is unlikely to be possible within current iTSCi budgets.

Figure 9: Contribution to positive outcomes of resolved incidents – **all stakeholders**

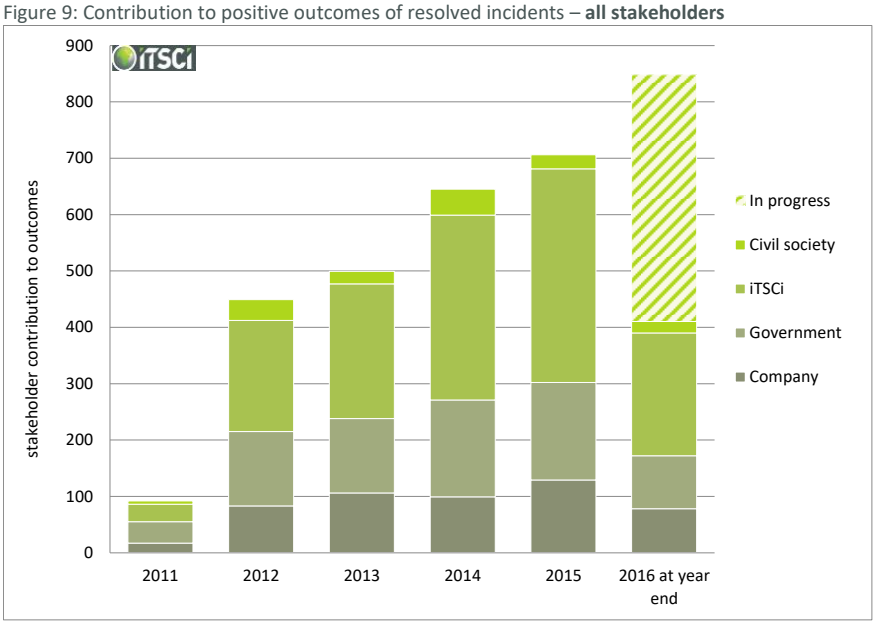
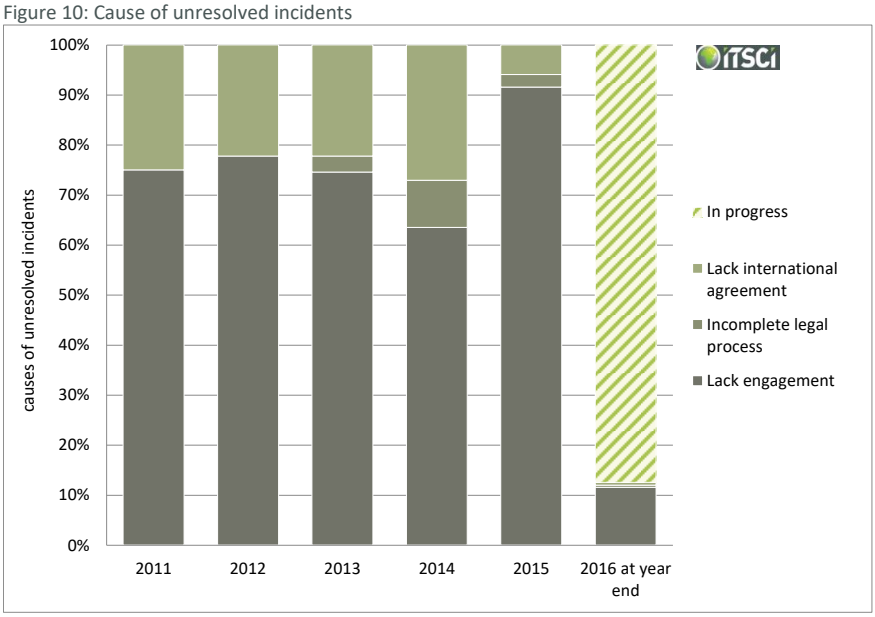


Figure 10 illustrates the causes of unresolved incidents. The majority are as a result of lack of engagement by the relevant stakeholder(s) in following up on the risk, for example failing to provide requested information, or failing to carry out additional checks such as recommended mine site visits. Some other incidents remain unresolved when authorities do not complete a legal process which has been initiated as a result of a risk, such as a police investigation which does not appear to reach a conclusion, with no outcome or report after an unreasonable period of time, or with the accused released without apparent justification.

Around 25% of all unresolved incidents relate to uncertainty regarding any procedure to manage negatively affected minerals. This includes minerals that have been seized as illegal, smuggled or otherwise fraudulent as well as minerals with less origin information available such as stocks. Minerals arising from both these scenarios have been debated numerous times at international fora at the request of iTSCi and in-region governments but with no solution found. Supply chains remain reluctant to accept and report on these type of minerals and this issue continues to hamper management and controls.

Figure 10: Cause of unresolved incidents



Outcomes of incident resolution

iTSCi has defined 58 outcomes which account for a combination of the type of stakeholder engaged as well as the impacts achieved through the management of incidents. Outcomes of successful resolution are determined once all details of the risk and mitigation actions are known, have been followed up, and are confirmed.

For the purposes of providing an overview of the positive impacts achieved through the iTSCi programme, the 58 outcomes have been combined into 8 aggregated groupings, further information on which can be seen in Annex II;

- Advice & training
- Due diligence actions
- Govt accountability & performance
- Human rights, safety & environmental
- Process improvement
- Security improvement
- Suspension & controls
- Traceability verification

Table 8 and Figures 11 and 12 highlight the split of outcomes which have been achieved by all stakeholders, and the programme itself, over the 6 year operational period of iTSCi.

Table 9: Positive outcomes from resolved iTSCi incidents

iTSCi outcomes	Advice & training	DD actions	Govt acc. & perf.	HR, safety & env	Process impr.	Security impr.	Suspension & controls	Traceability verification	TOTAL
2011	13	13	16	10	16	6	8	10	92
2012	63	66	90	16	91	16	47	60	449
2013	77	49	84	24	102	12	47	104	499
2014	39	56	104	50	77	22	116	181	645
2015	67	76	81	60	91	49	106	176	706
2016	42	39	47	34	42	38	27	141	410
Total	301	299	422	194	419	143	351	672	2,801

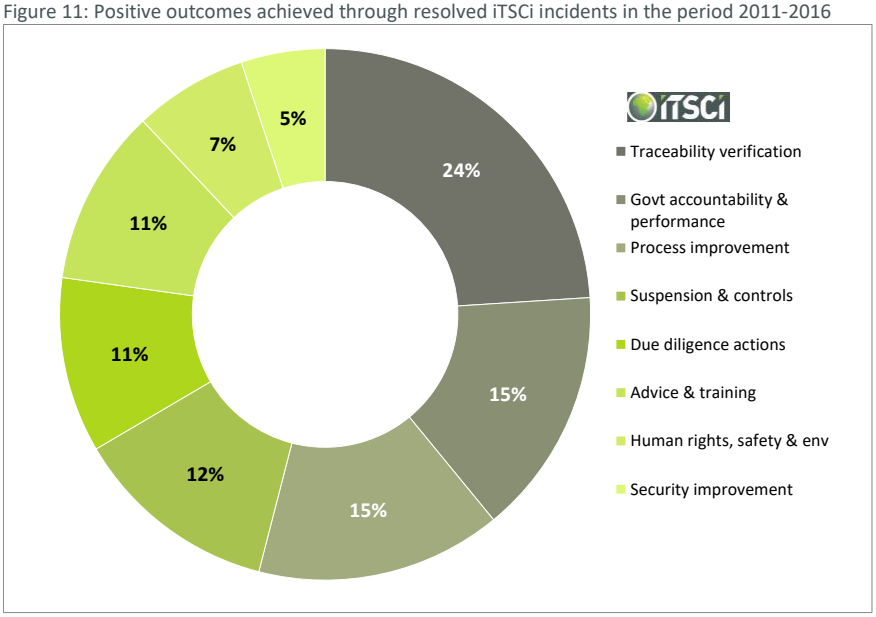
Traceability of mineral and accurate chain of custody information from mine to the smelter is the fundamental basis for knowing the supply chain and being able to understand and manage risks. The iTSCi procedures are established in new implementation areas from a zero level base, that is, mines are identified, checked, assessed and regularly visited, and training is provided to put in place traceability and monitoring of data returned. Errors are inevitable, and errors need to be separated from more questionable trends in volumes of mineral traded. Around one quarter of incidents relate to data points which require specific follow up, evaluation, or other action. Note that many other checks on data quality are made separately to the incident process.

Companies take actions for enhanced **due diligence**, such as making additional mine site visits, reporting risks of illegal taxation or verifying issues along their local transport routes. These actions can also be supported through focused monitoring by iTSCi field staff and local accountability mechanisms. These direct due diligence activities have made up 11% of the outcomes to end of 2016.

Many risks arise from the operating environment and the need for capacity building at government level. It is therefore interesting to highlight that 15% of the outcomes are related to **accountability and improvement in government** level performance. Examples include, arrests, court martial, reposting of mining or security service staff or similar legal actions against perpetrators, as well as improved performance through training or new commitments to principles of due diligence.

In addition to direct actions related to specific incidents, it is positive to also note the **improvements in processes and procedures** are achieved which are key to continued improvement and better management of risks in the longer term. These improvements can be to iTSCi systems, government policies or laws, company management, engagement of civil society or customary authorities. These improvements make up 15% of the total impacts.

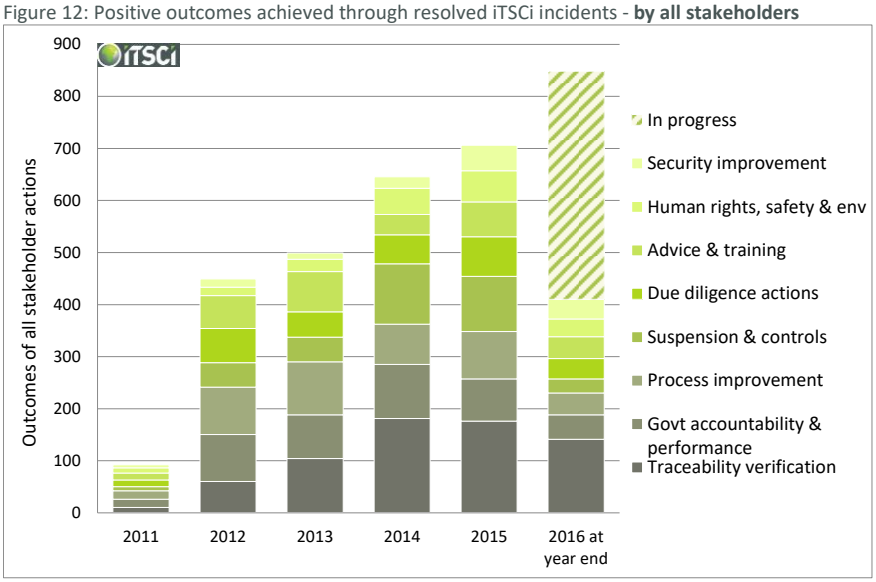
Figure 11: Positive outcomes achieved through resolved iTSCi incidents in the period 2011-2016



Not all operators in the mineral trade, nor all government agents or security staff fully adopt due diligence and illegal behaviour such as smuggling remains inevitable. Various **suspension and control** measures are implemented as necessary, either by the relevant authority perhaps by suspending mining licences, or seizing minerals, or by iTSCi through measures such as suspension of membership approval, or reduction or removal of allocated tags and so on. These measures are in addition to suspension of trade that companies may have implemented in response to risks. These measures represent 12% of outcomes.

As a balance to suspensions and controls, the provision of **advice and formal training** by iTSCi is important in order to bring about improved understanding of due diligence and ways to avoid funding conflict and human rights abuses. iTSCi staff at every level, and in all communications, with all stakeholders continually refer to the OECD due diligence guidance and advise companies, authorities and civil society groups on the meaning of that complex document in practical terms at the local level. That informal advice and support is also supplemented by more formal training events by iTSCi, and in cooperation with other bodies. In a typical year, iTSCi will formally train around one thousand individuals, with several thousand reached through informal advice and day to day awareness-raising. Over the 6 years of implementation, 11% of incidents have resulted in provision of advice and training.

Figure 12: Positive outcomes achieved through resolved iTSCi incidents - **by all stakeholders**



The primary objective of iTSCi is to reduce conflict financing and cases of direct financial benefits to armed groups are at a very low level, 28 incidents highlighting a possible risk of those issues at Level 1 in 2016 (see Figure 7 and earlier comments). The implementation of iTSCi and the constant on-the-ground team presence, as well as the understanding of potential loss of markets if these risks are confirmed is a powerful incentive for local community protection of security of mineral trade. In addition, 5% of incidents have led to clear outcomes for **improvements in security**, either in better training or management of private security, or more commonly, deployment of official security and improved security management by state security forces in areas identified to be high risk. This is in addition to accountability and other actions by the government (see Figure 14).

Finally, beyond concerns regarding conflict, positive impacts have also been recorded in management of **human rights (including child labour), health and safety and environmental** as a result of the iTSCi system. One or more of these improvements have been noted in 7% of incidents resolutions.

Outcomes achieved by stakeholders

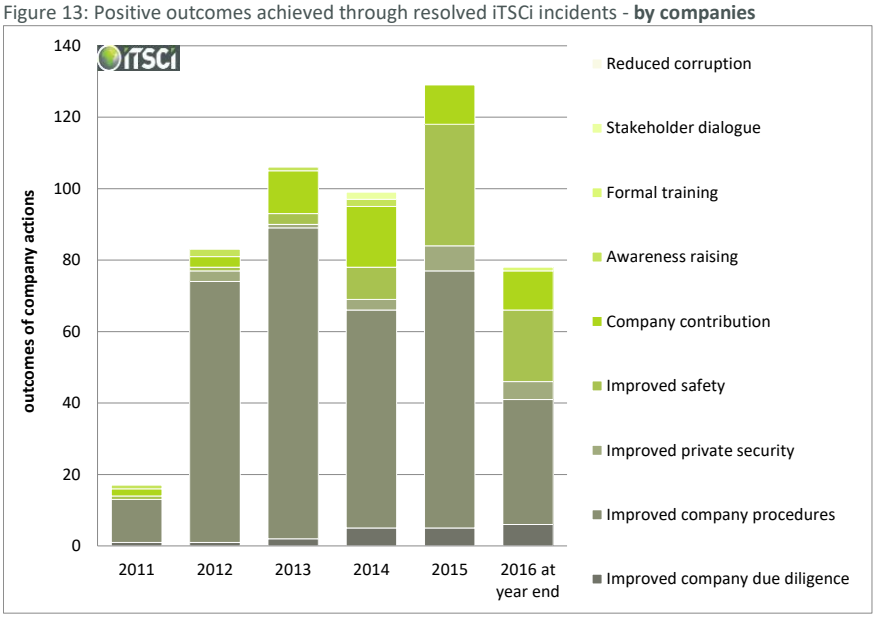
Outcomes from resolved incidents can be separated into achievements by each stakeholder group. Companies remain ultimately responsible for due diligence even when participating in the joint industry iTSCi programme and it is therefore notable that for companies, the primary outcome is for improved company procedures, which together with increasing company due diligence actions, make up around 70% of achieved actions of resolved incidents.

Also notable are the actions by companies to improve safety as well as to provide contributions to the community or affected parties following any accidents. These together make up a further 24% of the company related outcomes, higher in more recent years.

Lower level outcomes such as for awareness-raising by companies are generally less well recorded via the incident process. Companies do participate in local stakeholder meetings which facilitate discussion of due diligence, but their major contributions to improving understanding among suppliers are carried out through direct discussions as part of their normal business activities. This is a topic which is evaluated during company audits.

This data can be seen in Figure 13. Note that open incidents of 2016 remaining in progress are not shown on this graph since outcomes have not yet been verified.

Figure 13: Positive outcomes achieved through resolved iTSCi incidents - **by companies**

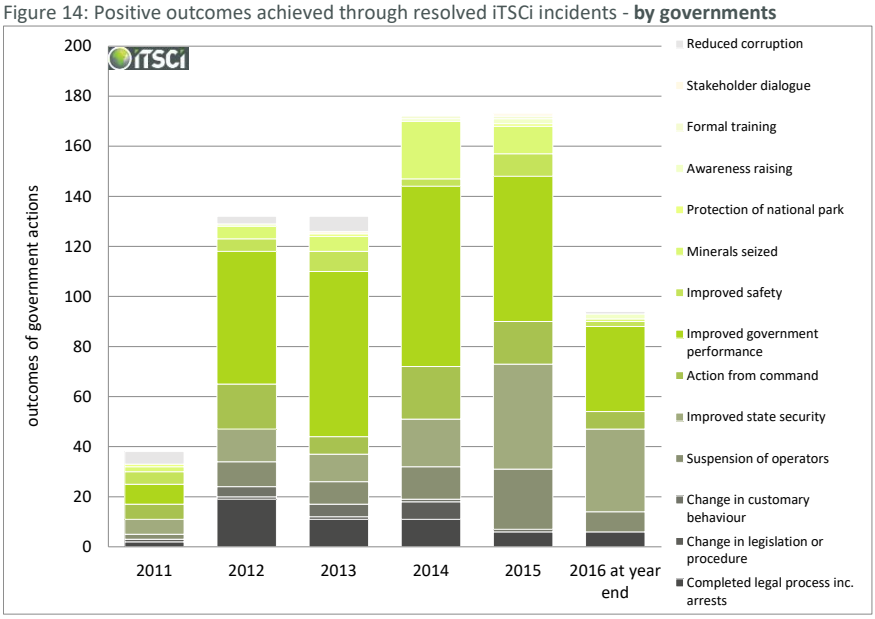


For government related outcomes, the most frequent result from resolved incidents was for improved government performance which was noted in almost 40% of cases. An improvement in state security was also achieved in 17% of outcomes, which could for example be achieved by training for security services, or mobilisation to protect mineral areas.

Direct action from command structures of official state services was noted in 10% of cases, for example court martial or reposting of rogue individuals of the army or other services who may have collected illegal taxes or otherwise acted improperly. In addition, 7% of outcomes led to legal action such as arrests, and 9% to suspension of operators. This adds to a total of 27% of outcomes by government demonstrating accountability actions.

There were also instances of changes in legislation and procedures, and participation in training for longer term progress as well as incidents where authorities have taken action leading to improved safety on sites. This is illustrated in Figure 14. Note that open incidents of 2016 remaining in progress are not shown on this graph since outcomes have not yet been verified.

Figure 14: Positive outcomes achieved through resolved iTSCi incidents - **by governments**



6. FURTHER READING

For further information please refer to online resources at www.itsci.org

A summary booklet describing how the iTSCi programme works and how systems refer to and adopt the OECD due diligence guidance is available here; https://www.itri.co.uk/information/itsci/itsci-graphics/itsci-booklet

All incident summaries to the end of June 2016 are publicly available here; https://www.itri.co.uk/information/itsci/itsci-incident-summaries Note that the most recent incident information is available only to members companies, governments, donors, other partners and the iTSCi Advisory Panel who contribute to the implementation of the programme.

The iTSCi whistleblowing address is itsci.whistleblowing@itri.co.uk and the whistleblowing policy including other contact details is available here; https://www.itri.co.uk/information/itsci/membership-information/itsci-whistleblowing-policy-and-procedure Additional DRC whistleblowing contacts are promoted locally.

ANNEX 1: Short overview of incident categories defined by the iTSCi Programme

iTSCi incident categories overview	Corruption	Due Diligence	Human Rights	Security & Armed Group	Chain of Custody
Level 1	Inadequate action on due diligence or false information	Inexplicable or deliberate traceability or procedural issues	Bribes influencing stated mineral origin	Non state armed groups, or illegal behaviour of state security impacting minerals	Serious human rights abuses or attacks on personnel
Level 2	Failure to implement due diligence plans or lack or response	Repeated traceability or unresolved procedural issues	General bribery or non-payment of official fees	Non state armed groups, or state security without reason, near minerals	Worst forms of child labour, accidental death, mining protected areas, intimidation of personnel
Level 3	Lack of general policies or company updates	Indications of traceability or procedural errors	Offers of bribes, non-contractual or receipted payments	State security missions disrupting minerals, poorly contracted security	Child labour, community dispute, lack of stakeholder meetings

ANNEX 2: Brief overview of incident outcomes and aggregated outcome groupings

iTSCi	INCIDENT OUTCOMES	
Overview level	**Detailed level**	**Description**
Advice & training	Awareness raising	Stakeholders participate in informal training or receive general advice on processes or activity
Advice & training	Formal training	Stakeholders participate in formally organized training sessions with particular agendas
Due diligence actions	Continued monitoring	iTSCi continues focused monitoring beyond incident period of issues considered high risk or likely to recurr
Due diligence actions	Improved company due diligence	Company gathers more information from suppliers, via mine visits, or from other sources and follows up
Due diligence actions	Increased local accountability and monitoring	Stakeholders extend actions to protect responsible supply chains including via whistleblowing
Due diligence actions	Risk alert to companies	iTSCi provides alerts on higher risk mines, suppliers or locations to particpants
Due diligence actions	Stakeholder dialogue	Stakeholders participate in negotiation between commercial parties or others to resolve disputes
Govt accountability & performance	Action from command	Authorities discipline, hold tribunal or otherwise take effective action against or punish rogue individuals in official positions
Govt accountability & performance	Completed legal process	Authorities arrest, fine or otherwise act against illegal activity and complete actions from the legal process
Govt accountability & performance	Improved government performance	Authorities replace poor performing or missing agents, increase number of agents, or participate in training
Human rights, safety & env	Company contribution	Company pays voluntary compensation including for care of injured miners or for community recompense
Human rights, safety & env	Improved safety	Stakeholders close mines or otherwise act to prevent repeated accidents such as via training
Human rights, safety & env	Protection of national park	Authorities prevent minerals originating from national parks entering the supply chain
Human rights, safety & env	Reduced child labour	Stakeholders train, raise awareness or bring about reduced child labour
Human rights, safety & env	Reduced forced labour	Stakeholders take action to prevent forced labour
Process improvement	Change in customary behaviour	Tribal or other traditional leaders adopt new behaviour which better supports de diligence
Process improvement	Change in legislation or procedure	Authorities or customary leaders introduce national or local law or revised procedures to protect traceability and reduce risk
Process improvement	Improved company procedure	Company modifies their method of future working or formalizes documentation and systems
Process improvement	Improved iTSCi procedures	iTSCi modifies method of working or documentation including adpting processes to local requirements
Reduced corruption	Reduced corruption	Stakeholders identify, report or prevent corruption
Security improvement	Improved private security	Company formalizes contracts with private security provider, vets or trains the security firm on human rights
Security improvement	Improved state security	Authorities provide added security, train or otherwise improve protection around mineral areas
Suspension & controls	Membership or mineral trade suspension	iTSCi suspends companies or mines from participation or freezes mineral movement
Suspension & controls	Mineral quarantined	iTSCi requests participants set aside mineral from trading during incident investigation
Suspension & controls	Minerals seized	Authorities seize questionable minerals
Suspension & controls	Plausibility control	iTSCi manages risks from implausible mineral type or production level at mines or weight changes
Suspension & controls	Suspension of operators	Authorities suspend mining licenses or operators
Traceability verification	Improved data	iTSCi resolves questions on data or supply chain of custody information
Unresolved incomplete legal process	Unresolved incomplete legal process	Unresolved due to failure to complete legal process following arrests or similar
Unresolved inconclusive	Unresolved inconclusive	Unresolved due to lack of sufficient information or any evidence to enable a conclusion to be reached
Unresolved lack engagement	Unresolved lack engagement	Unresolved due to lack of requested information or action from company or authorities
Unresolved lack international agreement	Unresolved lack international agreement	Unresolved due to no agreed solution, including for disposal of seized minerals