

An assessment of Mwangachuchu Hizi International (MHI)s implementation of OECD responsible supply chain due diligence, and the conflict status of mineral supply chains from MHI’s mining concession

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With

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Abbreviations

DRC	Democratic Republic of Congo
CTC	Certified Trading Chains
CNDP	Congrès National pour la Défense du Peuple
Cooperamma	Cooperative des Exploitants Artesanaux Miners de Masisi
BGR	(German) Federal Institute for Geosciences and Natural Resources
FARDC	Forces Armées de la République du Congo
MHI	Mwangachuchu Hizi International
OECD	Organisation for Economic Co-operation and Development

Summary

Introduction

In 2006, Mwangachuchu Hizi International (MHI) obtained a mining licence (PE 4731) to a concession of 25 square kilometres in the territory of Masisi, in the province of North Kivu, Democratic Republic of Congo (DRC), hereafter referred to as “the concession”.

MHI’s concession was occupied by combatants of the Congres National pour la Defense du Peuple (CNDP) during 2008, who illegally profited from its mineral output. The militia subsequently vacated the concession, which was validated Green by a joint validation mission in September 2011.

After the launch of the predominantly M23’s rebellion in 2012, Nyatura was among the militia that re-emerged, ostensibly to assist the Forces Armées de la République

du Congo (FARDC) in the fight against it. A Nyatura faction subsequently deployed in the town of Rubaya, near the MHI concession.

During the fieldwork for this report (November 2013), MHI operated one site on its concession, Bibatama. The rest of the sites were operated by members of an organisation describing itself as a co-operative, the Cooperative des Exploitants Artesanaux Miners de Masisi (Cooperamma). According to official production data from the North Kivu ministry of mines, during 2012-13 coltan production from Cooperamma-operated sites far exceeded production from Bibatama. MHI and Cooperamma signed a memorandum of understanding (MoU) on November 28, 2013, according to which all Cooperamma members' production will be sold to MHI.

MHI implementation of responsible supply chain due diligence

MHI has adopted and committed to a supply chain policy consistent with the standards set out in the OECD's model supply chain policy. MHI has also structured its internal management to support supply chain due diligence. MHI has assigned responsibility and, it appears, authority, to senior staff to oversee supply chain due diligence.

MHI has communicated about due diligence with its workforce. Since the signing of the MoU, extensive communication will also be required between MHI and Cooperamma, particularly concerning due diligence, to mitigate the risk of disgruntled Cooperamma members sabotaging operations or resorting to violence.

MHI provided evidence of tax payments, and denied making any unofficial payments to state officials, and members of public and private security forces. We found no evidence to the contrary. We received multiple, credible testimony, however, that Cooperamma members made payments to Nyatura in Rubaya during 2012-13.

UN, DRC government and civil society sources confirmed that most Nyatura combatants left Rubaya during late November 2013, heading to Bweremana on Lake Kivu, where they hope to be integrated into the FARDC. The sources further confirmed that Nyatura's taxes on Rubaya ceased with their departure. This issue should be assessed by a new joint validation exercise for the MHI concession.

Because links between Nyatura and the Cooperamma leadership apparently remain intact, we recommend that ongoing risk mitigation by purchasers of MHI material include evaluation of the issue.

MHI is owned by the Mwangachuchu family. Ben Mwangachuchu, who has no official political affiliation, is the president of the company, replacing Senator Edouard Mwangachuchu. The senator retains an interest in the business, however, as a family member.

MHI is implementing a mineral tagging and tracking system created by Geotraceability, significantly enhancing MHI's capacity to know and report upon when and where its minerals were mined, and by whom. Repeated tag scanning makes it speedily apparent when minerals go missing, and the system's linking production to specific, identified diggers significantly mitigates the risk of material of uncertain origin, which may have financed conflict, illicitly entering the supply chain. The risks of material of uncertain origin entering the Geotraceability system can and should be further mitigated by independent oversight.

Step Two of the OECD guidance is to identify and assess supply chain risk. MHI is already engaged in supply chain risk assessment. We recommend that the company extend this process as it implements its MoU with Cooperamma, to assess risks posed by the latter, from diggers to its leaders. MHI should communicate its risk assessments effectively and comprehensibly to downstream purchasers.

Step Three of the OECD guidance requires the design and implementation of a risk mitigation strategy. As part of its strategy, MHI should define its conditions for buying minerals from Cooperamma members, and what would trigger a suspension in buying. Also included should be MHI and Cooperamma participation in regular meetings of a local-level multi-stakeholder minerals governance committee, as have been established in Katanga. The committee should report to a provincial level multi-stakeholder committee, convened by the provincial minister of mines. MHI should share a summary of its strategy with downstream buyers.

Step Four of the guidance requires smelter-level audits. Upstream actors such as MHI must facilitate the audits by providing logistical support, access to mining sites, and relevant documentation. MHI did this during our fieldwork, and we consider the company compliant with Step Four.

Step Five of the OECD guidance calls for annual due diligence reporting. MHI has begun this, posting its supply chain policy on the company website, and stating that it has been Certified Trading Chains (CTC) audited. We recommend that this be supplemented by more detailed public reporting.

Overall, MHI has taken significant steps towards implementing OECD due diligence. While there is more to be done, our conclusion is that MHI's due diligence implementation is sufficiently advanced to be grounds for downstream companies to accept its material. Downstream purchasers should continue to monitor MHI's due diligence implementation going forward, and work with MHI to implement the report's recommendations.

The conflict status of mineral supply chains from MHI's mining concession

There were, during the fieldwork, two mineral supply chains from MHI's concession. The first was from Bibatama, and was mined by MHI employees, bagged and tagged using the Geotraceability traceability system, transported to Goma and processed by MHI. Based on our research and the testimonies of a wide range of informants, we have concluded that this supply chain does not finance conflict.

The second supply chain consisted of material from other sites on the MHI concession mined by Cooperamma members and sold to Cooperamma negociants, who sold the material to a variety of buyers. This supply chain financed Nyatura during 2012-13, but the financing ceased in late 2013. Our view is that since then, this mineral output has been conflict-free. This should be checked by a new joint validation of the entire MHI concession, which should take place as soon as possible.

Given the size of the concession and that different actors are mining different mine sites on the concession, the joint validation should provide an assessment accompanied by a colour coding for both the concession as a whole and for each site

individually. In the event that one or more sites on the concession are found in future to have renewed their association with armed groups and conflict financing, this could enable supply chains from unaffected mine sites to continue operating.

MHI and its downstream purchasers should continue to monitor possible links between Cooperamma and armed groups, and downstream purchasers should require MHI to ensure that all its material is adequately tracked and traced, and can be linked to identifiable miners. Downstream purchasers should also monitor implementation of the MoU, since if relations between MHI and Cooperamma deteriorate once more, this could become a source of conflict.

The risk that output from mines near MHI's concession is financing conflict is currently low. Yet this can easily change, and MHI must continue to take stringent tagging and traceability measures to mitigate the risk of material from outside the concession entering its mineral supply chain.