

For immediate release

4 August 2008

Scant Information and Wheeler-Dealing Undermine Congolese Contract Review

On the eve of the start of the promised renegotiation of mining contracts in DR Congo, Congolese and international non-governmental organisations (NGOs) today called on the DRC government to shed light on the renegotiations of mining contracts. No clear time-frame or criteria for the negotiations with mining companies have been forthcoming from the Government's side. In particular, the contents and publication of the terms of reference, as promised to private mining companies by the Vice Minister of Mines, remain obscureⁱ.

“We're four months into the final phase of the mining review and civil society is being kept in the dark about exactly what's going on”, said Jean-Claude Katende, President of the Congolese human rights organisation ASADHO. “The DRC Government has a duty to fully explain to parliament what's happening given the critical importance of the negotiations to the lives and aspirations of the Congolese people.”

The current lack of information contrasts with the almost daily public pronouncements by Victor Kasongo, the Vice Minister of Mines, during the Mining Indaba at Cape Town last February. Things have gone much quieter since March when the Ministry of Mines announced that the negotiations with mining companies would be guided by a high-level ‘task force’ composed of senior government ministers. Growing doubts about the independence and efficiency of the process have intensified amid reports that the DRC Government has refused all offers of international assistance and dropped proposals to set up a group of technical and legal experts to advise the task force.

“There's no level playing field. The DRC Government attempts to block some new deals but to nod through others involving major mining concessions like Nikanor's take-over of the Kamoto mine,” said Patricia Feeney, RAID's Executive Director.ⁱⁱ

Dan Gertler, who continues to consolidate his companies' hold over key copper and cobalt resources in Katanga, has announced an agreement in principle to acquire a 25 per cent stake in Anvil Mining Limited.ⁱⁱⁱ

Congolese and international civil society groups have long campaigned for a fair and comprehensive review of mining contracts. In March 2008, NGOs welcomed the publication of the commission's report but expressed dissatisfaction with the delays, confused procedures and news blackout which have eroded public confidence in the renegotiations. Most recently, the National Episcopal Conference of Congo (CENCO) maintained their readiness to take part in the government's ad hoc renegotiation Commission.^{iv}

“In the spirit of fairness and public accountability, the transfer of mining rights should be postponed until the review and renegotiation process has been concluded”, said Gavin Hayman, Campaigns Director at Global Witness. “How do Congolese citizens know they're getting a good deal?”

The NGOs urged the DRC government to:

- Explain the status of negotiations and how the public interest concerns are being addressed,
- Publish all the renegotiated contracts,
- Confirm which contracts are cancelled following the review process and when and how the cancellation comes into effect,
- Make additional efforts to seek out the views of civil society and those of local populations affected by specific contracts, as part of the renegotiation process, given their insufficient involvement in the review process,
- Facilitate the creation of a separate ad-hoc independent body, made up of suitably-qualified civil society representatives, independent lawyers and others, which would monitor the renegotiation process and submit open views and recommendations to the government.

The NGOs appealed to donor governments and inter-governmental organisations to:

- Urge the DRC government to make public information about the renegotiation process.
- Urge mining companies to clarify the new terms that have been agreed.

Signatories:

11.11.11

ACIDH

ASADHO

Broederlijk Delen

Bukavu Sud Kivu La Commission Environnement, Gouvernance des Ressources Naturelles et Droits des Peuples Autochtones/ Bureau de Coordination de la Société Civile du Sud Kivu

CENADEP Antenne du Kivu

CENADEP

CODELT

Fatal Transactions

Global Witness

Héritiers de la Justice

NDS

OCEAN

Réseau CREF

Rights and Accountability in Development

Reseau Ressources Naturelles

For further information, please contact:

In DRC : Jean Claude Katenge, ASADHO +243 997 032 984

In Belgium: Ruth Beeckmans, Broederlijk Delen +32 486 799 626

In UK : Lizzie Parsons, Global Witness +44 207 561 6365

In UK: Tricia Feeney, RAID +44 1865 515 982 and +44 779 617 8447

Notes for editors

On 20 April 2007, an inter-ministerial commission was set up to “examine partnership contracts and their impact on the recovery of these companies and national development, to propose, if

necessary, modalities for their revision with a view to correcting any imbalances and related faults.”^v

The commission reviewed more than 60 mining contracts signed between private companies and the state or state-owned enterprises. The commission completed its report in October 2007. After a delay of several months, the government posted the report of the commission’s review of mining contracts on the website of the Ministry of Mines in March 2008: <http://www.miningcongo.cd/>. The government also published some of the letters it had sent to companies outlining the findings of the review on their particular contracts.

For further information, please see:

- National Episcopal Conference of Congo, ‘Call for vigilance to safeguard national sovereignty and build our destiny’ (in French), 10 July 2008
http://forumrdc.org/index.php?option=com_content&task=view&id=387&Itemid=2
- A Fair Share, www.11.be/fairshare, www.11.be/partequitable
- NGO press release, “Publication of Congo mining contract review welcome”, 25 March 2008.
http://www.globalwitness.org/media_library_detail.php/634/en/publication_of_congo
- DRC Government press release, “DRC Ministry of Mines publishes full report of the Mining Contracts Revisitation Commission”, 20 March 2008.
- DRC Government press release, “Publication date announced for revisitation commission report on DRC’s mining contracts”, 18 March 2008.
- NGO press release, “Congo mining contract review: fast track or false trail?”, 18 February 2008. www.globalwitness.org/media_library_detail.php/629/en/congo_mining_contract
- NGO press release, “NGOs fear that DRC mining contract review process has been hijacked”, 4 February 2008.
www.globalwitness.org/media_library_detail.php/626/en/ngos_fear
- NGO press release, “International appeal for the publication of the final report of the ministerial commission on the review of mining contracts in the DRC”, 7 November 2007.
www.globalwitness.org/media_library_detail.php/596/en/international_appeal
- Global Witness report, “The Congolese mining sector in the balance”, 1 October 2007.
www.globalwitness.org/media_library_detail.php/576/en/the_congolese_mining
- “Rapport du groupe d’experts du Forum de la Société Civile sur 12 contrats miniers”, August 2007.
forumrdc.org/index.php?option=com_docman&task=cat_view&gid=45&Itemid=38
- Rights and Accountability in Development: “Key mining contracts in Katanga: the economic argument for renegotiation”, April 2007.
www.raid-uk.org/docs/DRC_contracts/Economic_Argument_for_Renegotiation.pdf

ⁱ Franz Wild, ‘Congo Mining Deal Negotiations to Start Aug. 5, RTNC Reports’, Bloomberg, 29 July 2008.

ⁱⁱ Mr Kabwelulu, Minister of Mines, said “Congo’s Government welcomes the merger ...” in Robin Pargamenta, ‘Nikanor and Katanga Mining merge to create \$3.3bn African giant’, The Times, 7 November 2007. “Officials in the DRC have been kept apprised of the potential Merger and have expressed their support,” in Katanga Mining Limited and Nikanor PLC, “Recommended Merger of Katanga and Nikanor to Create a Leading African Copper and Cobalt Company”, 6 November 2007, available at <http://www.katangamining.com/kat/media/newsreleases/news2007/2007-11-06/2007-11-06.pdf>

ⁱⁱⁱ The Canadian Press, ‘Family trust to buy 25 per cent stake in Anvil Mining for C\$296 million cash’, 10 July 2008.

^{iv} National Episcopal Conference of Congo, ‘Call for vigilance to safeguard national sovereignty and build our destiny’ (in French), 10 July 2008.

^v Arrêté ministériel no 2745/cab.min/Mines/01, 20 April 2007.