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Press release

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Publication of Congo mining contract review welcome; renegotiations should be fair and transparent.

Congolese and international non-governmental organisations today welcomed the publication of the review of mining contracts by the government of the Democratic Republic of Congo (DRC) and called on the government to ensure that the renegotiation of contracts is conducted openly and fairly.

“We are encouraged to see that the government has responded to civil society calls for the publication of the report,” said the NGOs. “This is an important step towards restoring confidence and transparency in the mining sector, but it marks the beginning, rather than the end of the process.”

The NGOs expressed concern about the lack of clarity surrounding the critical next stage - the process of renegotiating contracts with companies. Many companies are already engaged in negotiations, even before the process has officially got off the ground. In at least one case, CAMEC, negotiations are said to have already been satisfactorily concluded.¹

The government should publicly outline the process it intends to follow, including the criteria used in the renegotiations, and publish the revised contracts.

“It is in the interest of all parties to resolve the long-standing disputes about the fairness of the contracts,” said the NGOs. In the absence of a clear and orderly process, there is a risk that some companies may resort to international litigation to uphold their original agreements.

“If the DRC Government is sincere about wishing to create a stable and regulated mining environment, there must be a level playing field,” said the NGOs. The government

¹ CAMEC press release: "Camec To Raise £43.5 Million For Expansion" – CAMEC, 10 March 2008: <http://www.investegate.co.uk/Article.aspx?id=200803100702146906P>

should ensure that new mining contracts (including those recently concluded with Chinese companies) comply with Congolese law and are subjected to the same financial and legal scrutiny as the 60 contracts that have just been reviewed.

Any payments made by mining companies to the government as part of the renegotiations should also be fully declared and accounted for.

“The ultimate aim of this exercise should be to ensure that the Congolese people can benefit from their country’s wealth – a right which they have been denied for decades,” said the NGOs. “The government should guarantee that the additional profits which result from this review are channelled into the country’s long-term development.”

Two days before publishing the commission’s review – on 18 March 2008 – the government announced the creation of a “task force” which would be responsible for the next stages of the process.

“The composition of this task force, which includes only government officials, does not provide any guarantee of impartiality or independence,” said the NGOs. “In view of decades of mismanagement of natural resources in the DRC, it is essential that the task force include independent, international legal experts and members of civil society.” The vague promise that the task force will be “assisted by international experts and local professionals” is not a sufficient guarantee.

The NGOs also called on the national and provincial authorities to make greater efforts to seek the views of local populations directly affected by mining operations.

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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.”²

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. The review included contracts with both Western and Chinese-owned companies. The government promised to publish the report, but did not do so for several months, and not until the report’s main conclusions had been leaked to the press.

² Arrêté ministériel no 2745/cab.min/Mines/01, 20 April 2007.

The report classified the contracts into three categories: Category A contracts were deemed valid and not in need of renegotiation. Category B contracts were recommended for renegotiation on the basis of the flaws they contained. Category C contracts were to be revoked. It is not yet known whether the government will implement the recommendations contained in the report.

So far, sixteen mining companies have reported that they have received letters from the Ministry of Mines outlining the Commission's findings in relation to their contracts and mining rights and inviting them to enter into negotiations to resolve these issues.

On 20 March 2008, the government posted the report of the commission's review of mining contracts on the website of the Ministry of Mines: <http://www.miningcongo.cd/>

For further information, please see:

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.

NGO press release: "NGOs fear that DRC mining contract review process has been hijacked", 4 February 2008.

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.

Global Witness report: "The Congolese mining sector in the balance", 1 October 2007.

"Rapport du groupe d'experts du Forum de la Société Civile sur 12 contrats miniers", August 2007.

Rights and Accountability in Development: "Key mining contracts in Katanga: the economic argument for renegotiation", April 2007.