

MEMORANDUM OF CIVIL SOCIETY ORGANISATIONS WORKING IN THE NATURAL RESOURCES SECTOR

We, delegates of the Civil Society Organisations, following discussions held on Thursday 19th May 2008 at CEPAS in Kinshasa, are sorry to have to make the following statement:

The International Financial Institutions initiated and financed the review of the mining legislation of our country, without supporting the administration of mines in its new responsibilities;

It must be recalled that this review was carried out at a time when the country was experiencing the most difficult period in its history and during which the State was at its weakest:

Whereas in this meeting of Friday 19th December 2008, the Government had approved the mining contracts review report and had taken certain decisions related thereto, in particular to renegotiate contracts and agreements which had not amounted to anything. These included contracts and agreements concluded by the following companies: KMT, MWANA AFRICA, TFM, AGK, BANRO and MDDK.

To date, we have learned that four partnerships were finalised and only two of them refuse to renegotiate their contracts, which are clearly one-sided. These are Tenke Fungurume Mining (TFM) and Kingamiambo Musonoi Tailings (KMT);

Given that certain Financial Institutions, respectively the World Bank and the African Development Bank are on the one hand financing TFM and KMT and are on the other hand supporting the efforts of the government in good governance and transparency; this situation clearly leads to a conflict of interest;

According to certain sources, some members of Government are not on the same wavelength with regard to decisions to be taken:

Based on the aforementioned, the civil society organisations of the Democratic Republic of Congo, working in the natural resources sector, are extremely concerned about this situation and recommend the following:

To the President of the Republic

To take all necessary measures to ensure that TFM and KMT comply with the requirements of government and respect the provisions of article 56 of the Constitution of the Democratic Republic of Congo, in particular the payment of key money, royalties and the increase in company shares.

To Parliament

To carry out its role of control over the government in a proper and efficient manner.

To the government

To show solidarity in the interest of the country;

To do everything possible to finalise as soon as possible, the negotiations with TFM and KMT according to the same conditions as the other contracts negotiated in order to avoid the policy of being biased.

Involve civil society in the process of renegotiating these two partnerships;

Cancel both contracts in the case where the partners refuse to accept the requirements for the time being;

Penalise all persons who are conniving with investors in these two partnerships and who are supporting their refusal to renegotiate their contracts.

Publish the terms of agreements concluded in all contracts already renegotiated;

To international institutions and development partners:

Recommend that the companies KMT and TFM finalise their contracts with the Government, following the example of other partnerships already negotiated:

Stop putting pressure on the Congolese government during mining contract renegotiations with regard to their impact on the financing of these two projects;

To the embassies: Great Britain, USA, Canada, Germany, Belgium, Australia, ...

Support the government's efforts with regard to the policy of transparency in the extractive industries, which originates from their respective countries;

Do not put pressure on the government in favour of their respective companies.

To the Companies:

Ensure transparency of their activities through the publication of their investments, profits, taxes and royalties paid to the government;

With regard to TFM and KMT in particular, finalise the negotiations with the government in the general interest of the public and not in the interest of private individuals.

Do not take advantage of the international financial crisis to escape from obligations vis-à-vis the Congolese State;

Negotiate the terms of reference with the local communities.

Take measures to ensure that the communities become partners in the companies.

Thus done in Kinshasa, 19 March 2009

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3. RRN : Antoine Mingashanga, Bienvenue Imboko
4. RJRN : Marcel Mubenga
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