



Ventora Development

To: Congo n'est pas a Vendre Coalition (Congo is not for sale Coalition) (CNPAV)

Copy: Human Rights Watch, Resource Matters (also a member of CNPAV), Rights and Accountability in Development – RAID (also a member of CNVAP), The Sentry

14 June 2023

Dear all,

This correspondence relates to two separate matters which are sub-headed as such.

Meeting facilitation

We are responding to your letter of 1 June 2023 when you kindly shared with us the names of three facilitators you propose to enable a meeting between ourselves, CNPAV and other national and international NGOs. We also note you setting out a suggested agenda for the proposed meeting in the same letter.

Our most recent correspondence of the 28 May and 9 June 2023 reiterates our commitment to working with you to arrange a meeting anchored in a common commitment to engage in an environment of understanding, mutual respect and transparency. This will be vital for any preparation ahead of the meeting and of course during it.

Fundamental to this will be the agreement between ourselves of the need for any nominated facilitator to meet certain requirements of independence, impartiality and integrity. In order to cover these as part of the selection process, we are sure you will agree that the critical criterion will be neutrality. To enable us to all agree the benchmark for this criterion, we have looked to the definition of neutrality as defined by the Chartered Institute of Arbitrators (CI Arb). The CI Arb is an internationally recognised centre of excellence for the practice and profession of alternative dispute resolution (ADR) with a membership of over 17,000 professionals based across 149 countries and territories. The CI Arb's definition of neutrality is as follows:

"In its most generalised form, neutrality may be defined as the absence of any bias in relation to either disputing party, and the mediator's utilisation of his position to appropriately balance the distribution of power between the parties (Cobb & Rifkin: 1991: 41-42).

Neutrality may also be defined by reference to what it achieves – most prominently fairness. This essentially means that it is the duty of the mediator to exclude any personal opinions and beliefs from the mediation process. In exercising neutrality, the mediator must aid the parties in arriving at – through self-determination - a mutual agreement (Spencer & Brogan, 2006: 92). Neutrality in this respect can be defined as impartial assistance."



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We are considering your nominees under this criterion and are preparing our list using this definition as a guide. While we understand that you were anticipating us to provide you with our list of nominees by 15 June 2023, you will appreciate that the need to adhere to the criterion of neutrality, amongst other considerations, has meant that the process is taking longer than we had originally expected.

Before we revert in detail on your list of nominees, we would appreciate your views on the extent to which this definition is acceptable in principle for the purposes of our mutual engagement. Furthermore, should you agree with this definition, that it should be applied by yourselves and ourselves when considering who is best suited to provide impartial, unbiased and fair assistance to our dialogue. This would mean that no nominee should have a previous link to either of our parties, directly or even tangentially, either currently or historically, personally, via family links, professionally or through shared sources of funding, which may cause a degree of bias and an imbalance of power to one party over another prior to, during or after our meeting.

Our agreeing this important benchmark will be a significant and positive step, which will benefit all sides involved in this process. We hope you share the same view.

Defamation proceedings

On a separate matter, further to our letter of 9 June 2023 which clarified our actions in DRC and France, we refer to the meeting that took place on 12th June between our DRC lawyer and the DRC lawyers of Mr. Jean Claude Mputu together with representatives of Resource Matters. The purpose of the meeting was to discuss the steps to be taken to effect a full and complete withdrawal of the defamation case initiated by Dan Gertler against Mr. Mputu and Resource Matters in March 2023. As you know, due to the nature of criminal cases in the DRC, this is something that Mr. Gertler cannot do unilaterally.

Despite the legal requirement that both parties mutually agree, we understand from our counsel that the lawyers of Mr. Mputu and Resource Matters proposed an alternative path that does not effect a complete and mutual withdrawal of the defamation proceedings. Under present circumstances, a failure to mutually agree the process for full withdrawing of the proceedings would mean that the defamation case would move forward, which is not in the interest of either party.

Please would you confirm to us in your next communication whether you would like the lawyers to meet again to agree the necessary steps for the complete and mutual withdrawal of the defamation case. Alternatively, whether, despite your initial objections, you prefer that the proceedings initiated by Mr. Gertler detailed above continue in DRC with all parties involved.



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With the aim of creating an atmosphere that allows for open, fair and transparent discussions with NGOs, we remain committed to Mr. Gertler's offer for the full and complete withdrawal of the above-mentioned defamation proceedings.

We look forward to hearing from you and to continuing our constructive dialogue as we mutually seek to ensure the very best outcome for DRC, its people and the ability for the nation to look forward and build its future.

Very best,

Ventora Development (Communications Team)