24 November 2023

Dear Ventora Development Communications Team,

We acknowledge receipt of your letter of 30 October. We appreciate you taking the time to respond despite the difficult and distressing circumstances in your country and the region.

Firstly, please allow us to correct the record and the assertions set out in your correspondence. You make reference to increased coalition activity against Mr. Gertler which you insinuate was done purposely to attack him during a time he could not respond. You further assert that this is evidence of our "bad faith". We strongly refute these claims.

a) On 11 October 2023 the Wall Street Journal published a story that the US government was considering dropping US sanctions against Mr. Gertler. You will be aware that we, as part of a coalition of 25 civil society groups, have repeatedly and publicly called on the US government not to ease its anti-corruption sanctions against Mr. Gertler as we believe that the statutory grounds for lifting sanctions have not been fulfilled. This remains our position. We have also previously publicly raised concerns that the Settlement Agreement between Ventora and the DRC specifically commits the Congolese government to assist Mr Gertler in his efforts to have the US sanctions cancelled. In response to the news article, therefore, the Congolese anti-corruption coalition, Congo is Not for Sale (CNPAV), organised on 23 October a peaceful protest outside the US Embassy in Kinshasa to demonstrate their concern and to call on US authorities to oppose any easing of sanctions. There was no link between the timing of this protest and events in Israel. The protest was simply a direct response to policy debates in Washington D.C.

b) On 28 September CNPAV raised public concern about the lack of transparency of a $180 million settlement agreement between the Congolese government and Glencore for the mining giant's prior conduct linked to corruption and bribery. You say the subject matter was entirely unconnected to Mr. Gertler and that a negative reference to him was included in the release, which you view as an attempt by CNPAV to defame him. Yet the reference was simply a factual one: Mr. Gertler was a partner of Glencore and continues to receive royalty payments from Glencore's two copper and cobalt mining operations in Congo. Reference to him was therefore a matter of public record, was directly relevant and was reasonable to include, as were links to previous research published by CNPAV highlighting the billions lost to the Congolese state from mining and oil deals involving Mr. Gertler which included the Glencore deals. Mr. Gertler may dispute the findings of this research – which we are happy to discuss further with him – but he was repeatedly given the right to respond ahead of publication of the research in 2021 and chose not to do so.

We regret that you appear to be of the view that activities by civil society groups should be suspended while we are in correspondence about a possible meeting. This is not the case. We remain open to participating in a round-table meeting with Mr. Gertler, but this does not imply that we will halt our normal activities of exposing and denouncing corruption, bribery and any associated human rights violations. We trust you will understand that we will continue to advocate for transparency and accountability, which it is our mandate to do. However, and as referred to previously, we will, of course, share any new research findings with your team with a right to respond ahead of publications, as is the common practice of all our organisations.

As we have said from our first response to Mr. Gertler on 15 March, we welcome an opportunity to meet with him, to receive all the documents he said he would share in "full transparency" and to discuss face-to-face our concerns about his business activities in the DRC. We note, however, that it has now been over 9 months since a meeting was first proposed and you have still not agreed to the modalities for the meeting and have provided no details as to why the mediators we proposed are unacceptable. In our letter of 5 October we proposed a timeframe for a preliminary call between representatives of both parties to work out the modalities, with the aim of moving matters forward expeditiously. We understand the difficult circumstances in your country and the region, but we have not heard back from you on this point.

At this stage, it is unclear to us if Mr Gertler is truly committed to participating in a fully transparent round-table meeting with civil society. You accuse us of seeking to "score points" for doing our routine work in the interest of the Congolese people and respect for the rule of law. Such an accusation is unfounded and appears designed to delay matters. If Mr Gertler remains committed to a meeting, then the next step is clear. Please propose dates for when a preliminary meeting can be arranged so we can move forward to a concrete date for the roundtable.

On the matter of royalties as set out in your letter, we do not agree with your assertions, and we set out detailed reasons in our letter on 15 March and in the CNPAV publication, *Billions Lost.* As you may recall, prior to its release, the CNPAV coalition submitted an 11-page document to Mr. Gertler's communications agency detailing the findings and offering an opportunity for Mr. Gertler to comment and correct any errors. CNPAV were informed that it had been received and that Mr. Gertler had "no comment" on it. Once again, we remain open to receive any documents you believe may be relevant to these findings and are happy to discuss this with you at a future round-table.

On the matter of the defamation charges brought by Mr Gertler against our colleague Jean-Claude Mputu and his employer, Resource Matters, we understand that the lawyers await a clarification in writing of your advice on the completion of the judicial proceedings as requested by their lawyers. We remain concerned that this action is still ongoing.

We look forward to your response. Our Congolese colleagues who have endured years of war are aware of the duress of working under the threat of constant conflict. We all wish you safety and security for you and your families.

Sincerely,

- The Congo is Not for Sale Coalition (CNPAV)
- Human Rights Watch
- Resource Matters (also a member of CNPAV)
- Rights and Accountability in Development – RAID (also a member of CNPAV)
- The Sentry