

DAN GERTLER
RAMAT GAN, ISRAEL.

07/02/2023

Individual letters sent to:

The Congo is Not for Sale Coalition
Human Rights Watch
The Sentry
Rights and accountability in development (RAID)
Resource Matter

By mail [REDACTED]

Dear [REDACTED]

I hope this letter finds you well.

I am writing in the spirit of transparency and collaboration. Having spent the majority of my lifetime amongst the people of the DRC, like you I care deeply about the future of this great nation. From the lush mountains of Katanga to the lively meeting-grounds of Kinshasa, the vivid landscapes and vibrant locals remain an abiding source of inspiration. While you and I might not agree on the nature of my initial investments – I strongly believe I built critical infrastructure, created employment, and catalyzed development of the natural resource sector – we share an enduring commitment to the DRC and to the well-being of the Congolese people.

As you may know, I recently concluded an historic Settlement with the democratically elected government of the DRC. With an estimated 2 Billion dollars combination of cash and assets being transferred by me to the DRC, this settlement represents the largest-ever consensual transfer in the history of the region. Just imagine what these funds could do to improve the lives and livelihoods of everyday citizens. From building new schools and hospitals to providing food to the hungry and medicine to the sick, this massive influx of revenue will mean a great deal to so many who so urgently need it .

Whilst various non-governmental organizations have paid much attention to my sale of assets in the DRC, there has always been less interest and focus on the scope and scale of my investments, acquisitions and costs in the DRC. If these are a point of interest or inquiry, I would be pleased to share further details and documentation in full transparency. If this is indeed the case, I encourage you to please be in touch.

From the start of negotiations toward this settlement I have sought to anchor inclusivity and transparency – with particular respect for the crucial role of civil society and democratic processes – at the core of our agreement. That is why a broad and inclusive cross-section of grassroots Congolese leaders have shown support for the Settlement and embraced the unprecedented transfer of assets and value to the DRC. They have also recognized that if the Settlement is not completed in accordance with its terms, it will likely trigger an unwanted impasse and an inevitable adverse impact on the returned assets that the DRC Government wish to sell .

DAN GERTLER

RAMAT GAN, ISRAEL.

In continuing with this transparency, I invite you to review the full copy of the Settlement, included in addendum, and would be pleased to provide any further details that might be of interest .

Your advocacy efforts brought this major Settlement to fruition. Although I am adamant that I should not have been sanctioned by the US under the Magnitsky Act, more than five years later, the reality is that proponents of Global Magnitsky can see that in my particular case, the sanctions have had their desired effect. The essence of the sanctions is not merely to punish - it is equally envisaged that for the sanctions regime to work they should promote positive change. Faced with crippling sanctions (including at the behest of NGOs), I had no choice but to end all of my activities in the DRC; transfer significant assets via this historic Settlement; and my group has implemented thorough compliance procedures. The sale by the DRC of the assets transferred to the Government will be achieved transparently as the DRC moves to uphold the rule of law and further democratization. I have been punished and as a result of the Settlement positive change has been promoted.

Accordingly, you have achieved the desired changes being sought. Opposing the Settlement would therefore be punitive, both towards me and the Congolese people and as mentioned above, any obstacle to its performance could potentially have a very damaging effect for the DRC.

On that basis, to oppose this Settlement is to say that continuing my suffering is more important than improving the lives of the Congolese people .

In contrast, your support for this historic Settlement would be an enduring lesson and legacy regarding the role of civil society to effect change. It would strengthen sustainable development, stabilize the situation on the ground, and contribute toward democratic consolidation. Most importantly, it would transform the lives of so many across the DRC.

At a time of political instability and economic uncertainty across the globe, the good news of this Settlement – what it means for improvements in democracy, development, and the rule of law – and the critical role of civil society leaders like you in making it a reality, will be a source of hope and optimism for many .

I hope that you will consider the merits of the Settlement in the same good faith that underpins this letter to you. I would be pleased to engage in further dialogue with you, and invite you to discuss any points in greater detail with me. I welcome the role of civil society and the free press — the important democratic oversight it provides, of which all of us who cherish freedom and fundamental rights are the beneficiaries – and look forward to continuing this conversation.

Thank you for your consideration.

Sincerely,

Dan Gertler





THE SENTRY
WAR CRIMES SHOULDN'T PAY



resource matters



15 March 2023

Dear Mr. Gertler,

Thank you for your letter to our organizations dated 7 February 2023. While we appreciate your sentiment in reaching out to us, we are not in a position to endorse the [Settlement Agreement](#) your company, Ventora Development SASU, signed in February 2022 with the government of the Democratic Republic of Congo (the "Settlement"). In short, too many contractual clauses are not yet available for review, such as the annexes to the Settlement. Moreover, many outstanding questions remain about its substance.

We also remain concerned about the discrepancies between the "spirit of transparency and collaboration" you invoke in your letter and your actions targeting civil society groups. For example, in your letter you "welcome the role of civil society and the free press" and acknowledge that the advocacy conducted by civil society has had its desired effect. Yet at the same time, you or your network have pursued, and continue to pursue, legal action against anti-corruption and human rights activists such as the Platform to Protect Whistleblowers in Africa (PPLAAF), Global Witness, Resource Matters, and the spokesperson for the anti-corruption coalition, *Congo n'est pas a vendre*, all of whom have questioned your business dealings in Congo.

Furthermore, two whistle-blowers employed at Afriland First Bank in Kinshasa who exposed alleged money laundering involving you and your network were [prosecuted](#) by Congolese authorities and subsequently [sentenced to death](#) *in absentia* following a [deeply flawed](#) legal process. Although they face the death penalty, the alleged money laundering that they reported has not been investigated. Our understanding is that the Settlement you asked us to endorse may actually obviate such investigations since it would also immunize you and your companies from prosecution in DRC.

Congo's natural resources and the benefits derived from them ultimately belong to its people. They have the right to full transparency about all transactions related to such resources. Indeed, Congolese law requires it. Publication of all mining contracts is also a key condition set by the International Monetary Fund for its \$1.5 billion loan to Congo.

In [your letter](#) you expressed a willingness to "share further details and documentation in full transparency" and that a full copy of the Settlement was included as an addendum. Unfortunately, a copy of the Settlement was not attached. Nor has it been provided to us, despite our prior requests. We urge you to publish it in full alongside the documents that underpin it, including all contracts, annexes, loan agreements and similar documents pertaining to the acquisition of Congolese assets by your companies since 2010.

We understand that [civil society groups](#), former [US officials](#) and [others](#) have already expressed concerns and raised important questions about the parts of the Settlement that have been made public. As part of your commitment to “full transparency” we urge you to address these concerns, including those set out below:

1. **The value of the assets you will return to the DRC.** Your letter states that the mining and oil assets in north-eastern Congo that your company will return are worth \$2 billion, yet Congolese civil society groups and other financial experts say the assets are worth considerably less. We have not seen credible, transparent and independent verified information that would place the value of these assets at \$2 billion. Such information is vital to assess the Settlement and the true value of the assets to be returned to Congo.
2. **Reimbursements to your company.** The Settlement provides for a reimbursement of 240 million EUR to your company for the prior investments made in the mining and oil assets that you will return to the Congolese state. Again, no credible, transparent and independent assessment of the investment costs has been published, nor has an explanation been provided setting out why the costs of private exploration should be reimbursed by the Congolese state and its people.
3. **Reimbursement of a loan to your company.** The Settlement provides for a reimbursement of a \$192 million loan your company made to Gécamines, the Congolese state copper-cobalt company, shortly before US sanctions were imposed against you and your companies in 2017. Despite [civil society](#), the [DRC public prosecutor](#) and the [Inspection Générale des Finances](#) raising concerns about the use of these funds, there has not been enough information to ascertain the ultimate purpose or use of the proceeds of the loan. Additionally, information about the assets or receivables Gécamines may have pledged as securities and any other contractual agreements remain undisclosed.
4. **Ongoing royalty payments for three cobalt-copper mines.** The Settlement sets out that your company will retain the royalties from Mutanda Mining, Kamoto Copper Company and Metalkol, three lucrative copper and cobalt mines. However, [Congolese officials](#), [civil society](#) and others have questioned the legality of those transactions and the issues are still unresolved. For example, in 2011 two Congolese government ministers [explicitly warned](#) Gécamines that the sale of the stake and royalties in Mutanda Mining to your company was contrary to the DRC law, yet the sale went ahead.

Without clarity as to whether the procedure to privatize state royalties was legal, the allocation of these royalties to a private company and not to the DRC state, is at a minimum, premature. Without a clear resolution, this arrangement could improperly deprive the DRC Treasury of much needed revenue. A [recent financial analysis](#) by civil society groups estimates these royalties could generate \$1.8 billion over the next two decades, funds which could be used to alleviate poverty and improve the lives of Congolese citizens. Once again, a credible, independent and transparent

assessment of the validity of the deals needs to occur prior to allocating the royalties to your company in order to resolve these outstanding questions.

Another issue of concern for us is that there are ongoing criminal investigations in various jurisdictions, including in the [UK](#), [Netherlands](#) and [Switzerland](#), [related](#) to business activities of your closest partners in the DRC. Since 2017, the US government has also imposed sanctions on you and dozens of entities and individuals in your network for “opaque and corrupt mining deals” in Congo. In its [press statement](#) in 2021, the US Department of the Treasury said it remained “committed to ensuring that Gertler is not able to corruptly profit from continued access and influence in the DRC and globally.” You acknowledged that these sanctions have been “crippling,” and that your companies have now “implemented thorough compliance procedures.” We urge you to fully publish all these new procedures as well as a full assessment of where these were not followed in the past.

We note the Settlement specifically commits the Congolese government to assist you in your efforts to have the US sanctions cancelled. Without further clarity on what measures have been taken to justify removing sanctions, it is not clear why sanctions should be removed. We question why the DRC government should assist you in removing these sanctions. We understand that the statutory grounds for sanctions relief may not have been fulfilled and absent any evidence of what steps you have taken to obviate sanctions or how the law has been satisfied, lifting sanctions prematurely could be harmful to the Congo and risks the integrity of the sanctions process. In the interests of transparency, we joined a broad coalition of 25 international and Congolese civil society groups in a [public letter](#) to the US administration in this regard.

We are open to discuss our concerns with you in person. But for such a meeting to be productive, there would need to be a halt to all legal process against human rights defenders, anti-corruption activists, non-profit organizations and media outlets by your companies; full public disclosure of the Settlement Agreement and its annexes; a full declaration of all your current business holdings and your affiliated companies and/or proxies and comprehensive disclosure of all contracts that underpin those current holdings. Such actions by you would provide a basis for such a meeting.

Yours sincerely,

Human Rights Watch
Resource Matters
Rights & Accountability in Development (RAID)
The Sentry

DAN GERTLER
RAMAT GAN, ISRAEL.

17 March 2023

Dear all,

Thank you for your letter of 15 March 2023 which was in response to my letter to you (and others amongst civil society) dated 7 February 2023.

I also refer to my exchanges with most of you since that initial letter.

The purpose of my previous letters would have been clear to you. Notwithstanding the many years of your advocacy against me and my business interests, I have invited you to a round-table meeting so that I can share with you, on a transparent and collaborative basis, all documents, materials and calculations that you might wish to see regarding my business activities in the DRC. (Indeed, I have made similar invitations previously, in particular my invitation to you from February 2021 (attached) in which I offered you the opportunity to review my past transactions with full transparency and openness. Sadly you declined that invitation. Had you taken up the offer, there would have been no need for your current questions- all would have been answered.)

My offer was without pre-conditions. I did not require you to renounce your previous allegations against me, nor to commit to any process or outcome. My offer was genuine and sincere and it remains open to you.

Although I have consistently rejected allegations made by certain NGOs in the past, I have never sought to stifle the work of civil society groups. Indeed, in contrast to your position, the majority of civil society groups within the DRC today support the Settlement. Whilst generally supporting the work of civil society, I cannot be expected to stand by or advocate freedom of expression under the guise of civil society that is defamatory against me and to my immediate personal detriment and who on occasion have broken the law.

I do not intend to address each of the allegations and implications of wrongdoing included in your letter. Suffice it to say that I reject them all absolutely. I would like, however, to bring just a few points to your attention:

- You refer to the assets that my company “will return”. Please note that all assets were returned promptly following the signing of the Settlement. The transfer process, including all data relating to assets and all hardware and software required to utilise such data, was carried out during the course of March-April 2022.
- An independent international Tier 1 valuation expert carried out a valuation of the returned assets, from which you would understand that the estimated \$2bn value of returned assets and cash to the DRC is a conservative estimate.
- The amount of lost costs to be reimbursed by the DRC to Ventora has been verified and audited by the DRC and can be fully supported with documentary evidence. This sum has not yet been paid by the DRC notwithstanding them receiving the assets almost 12 months ago. Together with the Tier 1 valuation report mentioned above, this is an example of the material you would be privy to at the roundtable meeting I have invited you to.

DAN GERTLER

RAMAT GAN, ISRAEL.

- The Settlement Agreement that you have already seen and has been published in the public domain, contains the entire deal between Ventora and the Democratic Republic of Congo. The missing annex (not annexes) was the non-binding term sheet of 9th February 2022 which outlined the exact same Settlement terms but in a non-binding format. The whole purpose of the 24th February agreement was to enshrine in a binding nature, the terms that were previously agreed. By its very nature, there is nothing in that annex that could alter the full Settlement terms of which you are aware. You will be welcome to review the non-binding term sheet when we meet.
- I have repeatedly stated and confirm again today, that neither I, nor any company of the Ventora Group nor any person or entity connected to me or in which me or my family are beneficiaries have any interest in any mining or natural resources asset, permit, license or project in the DRC whatsoever, other than the three remaining passive royalties of which you are already aware.
- Ventora's acquisition of royalty rights have been verified multiple times. Such deals have been investigated and audited by independent parties such as Ernst & Young as well as the Democratic Republic of Congo (in advance of the Settlement) and the General Inspectorate of Finance (IGF) in their Gécamines report. In each case, the parties concluded that the transactions were carried out on fair commercial terms and at market value taking into account all available data and market conditions at the time of such transactions. In light of the changes to certain parameters and circumstances in the years following those acquisitions, Ventora agreed to pay an additional €249m in respect of the KCC Royalties that it had previously acquired. That additional amount equates to actual future royalties of approximately €685m in absolute terms. According to CNPAV's own calculation, where the entire KCC Royalties has a net present value of \$380m (approx. €360m), Ventora's additional payment represents 70% of the entire value of the KCC royalties.
- As you know I vehemently deny the defamatory allegations made in connection with Afriland as set out in Global Witness and PPLAAF's July 2020 report. As a result of which I have taken legal action against them in multiple jurisdictions. It is noted that Bloomberg's piece on the report stated that the organizations (i.e. GW and PPLAAF) *"couldn't prove that the network was used to evade U.S. sanctions and it doesn't allege any criminal behaviour."* Indeed, Global Witness and PPLAAF themselves state in page 8 of the report that they *"cannot conclusively prove that Gertler has indeed established this complex network to evade U.S. sanctions since 2017."*
- I would be happy to share with you more detail on my governance and compliance protocols at a future meeting.

In the course of a short letter, I do not expect to convince you of the errors in the decade-long campaign you and your predecessors have waged against me. Nonetheless and notwithstanding your mistaken belief that I caused losses to the DRC, your consistent failure to acknowledge the extent of investment I made and brought to the DRC is disappointing. Since my involvement in business activities in the DRC, I invested more than \$2bn in the acquisition, financing, maintenance, exploration and development of mining projects and

DAN GERTLER
RAMAT GAN, ISRAEL.

brought other foreign investors to the DRC who have invested an unprecedented \$15bn in DRC mining projects. These projects have gone on to pay billions of dollars of tax payments to the DRC, have provided mass employment and increased hugely in production and value (which the DRC benefits from as shareholder, royalty-owner and through taxes). The overwhelming and long-term benefit to the country is incalculable.

As a final word, I believe that the terms of the Settlement are unprecedented and on any view should be positively received - even by my detractors. Your response and continued campaign against me suggests that no settlement agreement would ever have satisfied you - only an illegal expropriation of Ventora's assets, which itself would have plunged Ventora and DRC into a decade-long arbitration during which time the assets would have been blocked and valueless to the DRC. The consequences of your desired outcome regarding Ventora and the DRC is fundamentally bad for the Congolese people and I would be able to demonstrate this to you if you accept my invitation in this letter.

Instead, you should be championing the Settlement as the first significant success of the US Global Magnitsky sanctions regime and use it as a blueprint for other sanctioned persons. Your reaction now risks achieving the opposite result - moving forward, why would any sanctioned person ever reach a consensual settlement, transfer significant assets and pay such a huge price as I have done? I respectfully request you take into account the voice of the overwhelming number of hard working local NGOs in DRC who have involved themselves in and support the Settlement yet whose opinion you appear to consider is unworthy. They include NGOs who previously worked tirelessly against me.

You and any other NGOs are welcome to accept my offer to meet for a full and transparent engagement, without pre-conditions. This is an opportunity you should be welcoming, and if you truly represent the interests of the Congolese people, you would not let this offer pass by.

Sincerely,

Dan Gertler

DAN GERTLER
RAMAT GAN, ISRAEL.

13 April 2023

Dear all,

Suspension of legal process for defamation

I am writing further to my previous letters to you dated 7 February 2023 and 17 March 2023 and to your letter to me of 15 March 2023.

The Jewish holiday of Passover, which we have just celebrated, honors the concept of freedom. I believe in freedom - the freedom to work, the freedom to prosper, the freedom to express oneself, the freedom to disagree and the freedom to make mistakes.

There is always room for discourse and disagreement – I strongly believe I built critical infrastructure, created direct and indirect employment and catalyzed development of the natural resource sector in the Democratic Republic of Congo by investing huge sums of money and bringing good partners – and indeed I have been criticized harshly by many. While it is rarely a pleasant feeling, I welcome constructive criticism and fair reporting. However, I am sure we can all agree that no one should accept groundless libel and defamation reports. Sadly, over the years I have been subject to many such claims, which have greatly affected my reputation, my ability to work, and above all - my family.

Like all of you, I care deeply about the future of the great nation of DRC. As part of the new start for DRC and its people, as well as for me, I recently concluded an historic settlement with the democratically elected government of the DRC. With an estimated 2 billion dollars' worth of cash and assets being transferred by my company Ventora to the DRC, this settlement represents the largest-ever consensual transfer to an African state in the history of the region. Just imagine what these funds could do to improve the lives and livelihoods of everyday citizens. From building new schools and hospitals to providing better quality of life and medicine to the sick, this massive influx of revenue will mean a great deal to so many who so urgently need it.

I am open to hear all criticism. I have previously invited you to conduct a professional discussion in good faith, in full transparency with all relevant documentation. I am still hoping my offer to sit and hear each other will be answered positively.

This is spring time, Easter for the majority of Christians in the DRC, the season of renewal and rebirth. A season, if you wish, of clean slates.

In the spirit of the holidays and of fresh starts - which I believe we all deserve - I have decided to unilaterally suspend the defamation lawsuits I recently filed against NGOs, media and individuals. This is the reason for my letter to you today. I am taking this step in order to create an atmosphere that is appropriate for you to accept my previous invitation for a transparent roundtable meeting.

I hope you receive this gesture of good faith in the manner in which it is intended and will now accept my invitation for a meeting at which we can conduct an open and productive discussion.

Sincerely,

Dan Gertler



Suspension of legal process for defamation

Dan Gertler [REDACTED]
À : Resource Matters <info@resourcematters.org>

14 avril 2023 à 16:57

Hello,
The decision was made yesterday. The chief legal counsel will now instruct lawyers in relevant jurisdictions to implement required steps. I look forward to a new era of meaningful engagement. It is shortly Shabbat in Israel and no further correspondence will be reviewed until late Saturday night and Sunday.
Dan Gertler

מאת 11:21 ב-13 באפריל 2023 בתאריך יום ו', 14 באפריל 2023 Resource Matters <info@resourcematters.org>:
Dear M. Gertler,

Thanks for your message.

Can you please share the formal notifications of suspension to the various courts to allow us to understand which procedures exactly have been suspended and which ones haven't?

Can you also confirm that none of the lawsuits have been withdrawn altogether?

Best regards,
Elisabeth

Le jeu. 13 avr. 2023 à 22:46, Dan Gertler [REDACTED] > a écrit :
Further to our previous correspondence over the last few weeks, please see my letter attached for your attention.

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Resource Matters ASBL
Avenue des Arts 7-8
1210 Bruxelles
Belgique

www.resourcematters.org

DAN GERTLER
RAMAT GAN, ISRAEL.

18/04/23

Dear all,

As stated last week, I made the decision to suspend all legal proceedings for defamation in both the spirit of good faith and in an effort to focus all energies on the positive consequences of my settlement agreement with the DRC, which will have tremendous economic benefit to that nation and its citizens. I was surprised by your negative reaction to this action and troubled that such response contained both incorrect and defamatory information that conflated other parties' criminal proceedings with my civil actions. Nonetheless, my decision to suspend the legal proceedings remains .

I also remain committed to my prior invitation to meet with you and answer any questions you may have about the merits of the settlement agreement, to include showing you all underlying documents and materials related to this historic settlement agreement. Your silence and lack of interest to accept this invitation and seek the factual truth is striking and telling .

Respectfully yours ,

Dan Gertler



9 May 2023

Dear Mr. Gertler,

We acknowledge receipt of your letter of April 13, 2023 announcing the "suspension of defamation lawsuits recently filed against NGOs, media and individuals" and take note of this decision, as well as your proposal for a roundtable between our organizations and yourself.

We wrote to you on April 18 that a collective response would reach you as soon as it was approved by all our organizations. Unfortunately, you released a public message on April 19 that we had not responded to your invitation and had "remained silent". We cannot ascertain the circumstances that led to this statement, but wish to clarify that we did respond to you on April 18 prior to its release.

We have repeatedly raised our opposition to the use of *Strategic Lawsuits Against Public Participation (SLAPPs)* and would welcome an update from you about the concrete steps you have taken since your announcement to suspend your defamation cases in various jurisdictions, as well as clarifications as to whether these procedures will be suspended or withdrawn. As regards your legal action in the DRC, it is our understanding that no official confirmation has been received by CNPAV spokesperson, Jean Claude Mputu, nor his employer Resource Matters, that your legal actions have been suspended or withdrawn.

Nevertheless, we appreciate your offer to meet us. It is the policy of our organizations to provide companies and government officials the opportunity to share their comments, corrections and insights before we publish. Several of our organizations have repeatedly shared extensive lists of questions regarding your business transactions in Congo, many of which have remained unanswered. We therefore welcome any opportunity to hold a substantive discussion with you.

To move this forward, we would like to invite you to come to Kinshasa for a detailed one-day meeting during the week of 29 May 2023. If this timing is inconvenient for you, we look forward to receiving alternative dates in the near future from you for a visit to Kinshasa.

We propose the following for the modalities of our meeting:

1. A mixed format with you and others in Kinshasa present in person, and a virtual connection to those of our civil society colleagues spread across Congo and internationally who may not be able to attend in person.

2. A neutral and secure environment with an agreed upon facilitator to ensure the meeting is effective and well-managed. We have approached the UN to request their good offices for such a meeting and will revert back to you once we have their response.
3. An agreed upon list of participants. Both sides should share the list of participants one week in advance of the meeting.
4. Access to full copies of key documents as listed in the attached annex. These are the documents you committed to sharing with our organizations "on a transparent and collaborative basis" in your letter of March 17. We expect to have access to these documents at the latest at the outset of the meeting. However, sharing them ahead of time may help answer some of our outstanding questions and will permit the meeting to be conducted more productively.
5. Ahead of the meeting, we commit to sharing a list of our most pressing questions to which we have previously requested your response, and will aim to do so at least one week before the meeting.

We trust these arrangements are agreeable to you and we look forward to receiving your response.

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

List of documents to be shared ahead of the meeting

1. A full declaration of all your current business holdings in the DRC and those of your affiliated companies and/or proxies.
2. The valuation performed by the independent international Tier 1 expert of the assets to be returned to the DRC pursuant to the Settlement Agreement, as discussed in your letter dated March 17.
3. Documentary evidence of the costs to be reimbursed by the DRC to Ventora, as discussed in your letter dated March 17.
4. Independent audits and valuations that attest that your companies' acquisition of the right to collect royalties was legal, on fair commercial terms and at market value, including from:
 - a. Ernst & Young
 - b. The DRC government
 - c. The Inspection Générale des Finances.
5. The Feb 9, 2022 term sheet (made binding according to Article 1.3 of the Feb 24, 2022 DRC-Ventora Memorandum of Understanding) as well as the "*documentation définitive*" and the 5 transactional agreements of March 16, 2022 that were enacted to implement the Feb 24 Memorandum of Understanding.
6. The anti-money laundering, sanctions, and anti-corruption compliance policies of Ventora and its affiliates.

DAN GERTLER
RAMAT GAN, ISRAEL.

17/05/2023

Dear all,

Thank you for your letter of May 9th, 2023.

I acknowledge your approval for a meeting and agree in principle, that it should follow the form and format set out in your letter .

As a matter of mutual respect and transparency and to ensure the agenda for our engagement is managed effectively, this specific one-day meeting should be facilitated by a mutually acceptable third party.

Accordingly, as a next step, may I suggest that within the next 10 days we both submit a list of three potential candidates to serve as a neutral facilitator of our discussion. Once the matter has been addressed to our mutual satisfaction, we should collectively agree on the agenda and fix a date for the meeting forthwith .

In addition, I also reconfirm that I have instructed my legal counsel to withdraw the referenced legal proceedings, as a gesture of good faith, notwithstanding they were well-founded in fact and law. I will also endeavour to provide any desired details of the withdrawn legal proceedings in due course.

I am looking forward to the opportunity to further engage with you. I am proud of the historic Settlement I have reached with the Democratically-elected Government of the DRC, and what it represents. It is the largest ever voluntary transfer of assets in the continent's history, representing Billions of dollars and the prospect of significant new development and infrastructure projects for the benefit of the Congolese people. I will be delighted to share more with you in that regard and to answer any questions you may have.

In the interest of transparency and fairness, I respectfully ask that you publish my correspondence with you through the same media channels (website/social media etc) that you use to publish your correspondence with me.

I remain committed to good-faith engagement, and to the transparency and inclusivity that anchors the historic Settlement.

DAN GERTLER
RAMAT GAN, ISRAEL.

I will ask the Ventora team to join the conversation from the next correspondence onwards, so our exchanges are, more appropriately, “institution to institution.”

Thank you for your consideration, and looking forward to being in touch.

Sincerely Yours,

Dan Gertler

Civil Society Response to your correspondence

Congo pas à Vendre <corruptiontuerdc@gmail.com>

24 mai 2023 à 15:37

À : Dan Gertler <[REDACTED]>

Cher Monsieur Gertler,

Nous confirmons la réception de votre lettre et travaillons sur une réponse.

Nous proposons que chaque par ie suggère non seulement trois facilitateurs mais aussi un projet d'ordre du jour afin de gagner du temps. Nous proposons que Ventora ainsi que notre groupe les partagent d'ici lundi 12h00 (heure de Kinshasa). Merci de votre confirmation.

Nous voudrions également vous inviter vous-même ou un représentant de Ventora à une discussion avec une délégation de notre côté afin de parvenir à un accord sur les facilitateurs et l'agenda. Merci de suggérer une proposition pour le mardi 30, mercredi 31 ou jeudi 1 juin et de bien vouloir préciser si cet échange se fera en personne à Kinshasa ou par téléphone.

Cordialement,
Le CNPAV



Ventora Development

28/05/23

Dear All,

Thank you for your latest email to Dan Gertler. As mentioned in his last communication, the Ventora team will participate in the communications with you alongside Mr. Gertler.

We look forward to moving ahead in planning our meeting together, anchored in a common commitment to a culture of collaboration, mutual respect and transparency.

Having now received your affirmative response, we will begin the process of identifying an independent and impartial candidate to serve as facilitator. Accordingly, as set out in Mr. Gertler's initial note to you, we will share with you a list of prospective facilitators within the next 10 days. (You will appreciate that we need each potential facilitator to approve taking on such a role before we can include them in a list to be shared with you.) We look forward to receiving your suggested list within the same timeframe.

As initially suggested, once we have agreed on a mutually satisfactory facilitator, we should then proceed to set the agenda together, under the guidance and good offices of this neutral facilitator.

With an independent and impartial facilitator enjoying our collective confidence, and a commitment to our jointly curated agenda, we would then be well-placed to expeditiously set the meeting.

As Mr. Gertler wrote in his earlier correspondence, his outreach to you is underpinned by good faith and a spirit of hope and optimism for the future of the DRC. Indeed, while Ventora and Mr. Gertler are no longer a part of that future, having ceased all active business in the country, we are proud that the historic settlement we concluded with the democratically-elected DRC Government will provide Billions to build a brighter future for the Congolese people. This will be a catalyst for positive change, contributing to democratic consolidation, environmental protection, and sustainable development, with well-paying jobs and critical infrastructure across the DRC.

We look forward to discussing this further with you in greater detail, and how we can move forward together for the Congolese people.

Very best,
Ventora Development (Communications Team)



01 June 2023

Dear M. Gertler,

Thank you for your letter of May 17th as well as the letter of May 28th from the communication of your holding company, Ventora Development.

We hereby submit a list of three facilitators. All three have been selected for their experience in facilitating exchanges between diverse and at times conflicting parties and for their extensive knowledge of the Congolese context. All have accepted to be on this list.

We also share with you a draft agenda. This agenda is in line with your offer to “share all documents, materials and calculations regarding [your] business activities in the DRC.”

We look forward to receiving your list of potential facilitators as well as comments on our draft agenda by June 8th, i.e. ten days from your last letter. Our wish is to hold the dialogue in Kinshasa before the end of June.

We are not aware of any steps your lawyers may have taken to formally inform the DRC judiciary of your withdrawal of proceedings against CNPAV spokesperson Jean Claude Mputu and his employer Resource Matters. We therefore reiterate our request of a detailed update on your proceedings against civil society organizations and media outlets. This will allow us to respond to frequent requests from media and diplomats as to the current status of your actions.

Best regards,

- 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



Letter 28.5.23

Congo pas à Vendre <corruptiontuerdc@gmail.com>

9 juin 2023 à 10:23

À : Ventora Development <dev.ventora@gmail.com>

Cc : [REDACTED]

Dear Ventora Development team,

Kindly be reminded that the deadline to share the list of facilitators was yesterday. May we trust you will revert to us before midday?

Best regards,
CNPAV

Le ven. 2 juin 2023 à 16:03, Ventora Development <[REDACTED]> a écrit :

Dear all,
Thank you for your letter of 1st June 2023.
We will revert early next week.
Yours sincerely,
Ventora Development.



Ventora Development

To: Congo n'est pas à 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 CNPAV)

The Sentry

9 June 2023

Dear all,

We are getting in touch further to our recent, productive correspondence which has enabled us to collaborate on arranging a meeting with the Group of NGOs which is leading important work to protect and strengthen the civil society in DRC and includes yourselves.

As stated in our previous correspondence from 28 May 2023, we are looking forward to arranging a meeting anchored in a common commitment to engaging together in an environment of understanding, mutual respect and transparency. We remain committed to progressing that collaborative process and greatly appreciate your constructive participation to date.

Today, we are specifically writing regarding the press statement issued by CNPAV on 2 June 2023, which rightly highlighted the work your organisation has done in promoting financial transparency in the DRC mining sector. We strongly reject your conclusions regarding the benefit to the Democratic Republic of Congo of the historic Settlement reached in 2022 between Democratic Republic of Congo and Ventora. The impact of the Settlement is overwhelmingly positive for the Congolese people- it is unprecedented in this region for a State to reach a consensual agreement with a third party, for the transfer to it of billions of dollars of assets and cash. Of course, this is one of the main subjects that we will discuss together- transparently, openly and fairly- at the meeting being arranged.

We would like to draw specific attention to the following statement that was included in the press pack released by CNPAV alongside the statement:

Note that despite the April 17 announcement that Mr. Gertler would suspend legal actions against civil society organizations and the media, we have not received confirmation that Mr. Gertler has formally informed Congolese justice of his withdrawal in the case he initiated against our spokesperson Jean Claude Mputu and his employer Resource Matters.

We were surprised that this statement was included in the final text distributed widely as it contains a number of inaccuracies, which are not consistent with the present situation. In the spirit of our joint recent ambitions to build a collaborative and neutral environment for future



Ventora Development

dialogue, we wish to highlight the following important anomalies that you may seek to address and correct:

- The announcement of Mr. Gertler's intention to withdraw the lawsuits was issued on the 13th of April 2023, not the 17th of that month as you suggest.
- As you will be aware, withdrawing a defamation case in the DRC is governed by the rules of the DRC's criminal procedure. Under those rules, the withdrawal requires participation of both parties and cannot be achieved unilaterally. After Mr. Gertler's team commenced this process on 13 April 2023 when his intentions to withdraw his claims against the media and NGOs in all jurisdictions was announced, on the 17th of April, Mr. Gertler's legal representatives in the DRC entered into a dialogue with your legal counsel to agree on a mutually accepted approach, to the extent permitted by DRC criminal procedure, for ending the case. We understand that the legal teams have agreed to meet within the next week to progress this process.
- Therefore, the suggestion in your 2 June 2023 communique that Mr. Gertler had not "*formally informed Congolese justice of his withdrawal*" is unrepresentative of the actual situation, as this was not his or his counsel's duty. As explained, Mr. Gertler has indeed initiated the withdrawal process and both legal representatives must now carry out the necessary steps.
- Separately, the statement issued by CNPAV omits the fact that all legal actions against the NGOs and the media brought by us in France were unilaterally withdrawn by us by 16 May 2023. Despite their merits and in a gesture of goodwill and commitment to the mutual process on which we are all working, we sought to remove any hinderance to the collaborative dialogue. To be precise, the omissions in your statement included no reference to our ending of established lawsuits filed against Africa Intelligence, Global Witness / PPLAAF and TV5 Monde. This was and remains a significant step towards collaboration, and we anticipate it will be acknowledged in the future.

We are hopeful that you wish to engage in a process that enables and fosters genuine dialogue. Addressing some of these omissions would be helpful to achieve that ambition.

We refer to your letter dated 1st June 2023, for which we are grateful. We are rapidly studying the material you sent and will revert in a very short order.

In the meantime, it would be useful if we can aim to ensure that while both parties plan, arrange and secure a constructive meeting, there is a commitment from you to work within a predetermined and mutually agreed process and structure. To ensure the very best outcome for DRC, its people and the ability of the nation to look forward and build its future, the accuracy of all arguments and messaging will be key, letting the facts speak for themselves and leaving hyperbole to others.



Ventora Development

We appreciate that the history of our dialogue is complex and has at times been unsatisfactory to you, but we must recognize that times and people change, and there remains today a commitment to engagement in good faith going forward.

We look forward to progressing discussions further with the aim of reaching agreement on an outcome that is best for the Congolese people.

Very best,
Ventora Development (Communications Team)



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."



Ventora Development

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.



Ventora Development

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)



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

19 June 2023

Dear all,

We are writing in response to your email dated 16 June 2023, and further to your and our earlier correspondence.

As we are in the process of conducting a rigorous search for appropriate meeting facilitators, we would like to once again underscore the importance of a two-way dialogue regarding the criteria for the nominees, in the interest of good faith cooperation and a timely and objective process. As outlined in our letter from 13 June, our agreement on this important benchmark will be a significant and positive step, which will benefit all sides involved in this process. While your email from 16 June reiterates your reluctance to engage in procedural discussions ahead of Ventora's nominees being proposed, we would encourage that a review of criteria for the selection of suitable candidates is prioritised at this time. This would assist us in finding common ground and avoid the need to return to the matter in the future on a candidate-by-candidate basis.

To illustrate the significance of this, we must share that it has come to our attention that all of the nominees that have been put forward by you – being accomplished and respected individuals in their fields – may find themselves unable to provide impartial, unbiased and fair facilitation of the proposed meeting as a result of past or present associations. In our view, these would prevent them from meeting a threshold of objective neutrality. Out of respect for your nominees' privacy, we are omitting from this correspondence the details of historic connections, campaign alliances, co-signed statements, media commentary and national and foreign-government engagement, which suggest the nominees may not meet the threshold of neutrality that would be expected for such an important meeting. We cannot emphasise enough that each of the candidates you have provided is held by us in the highest regard as individuals of good character and with distinction in their careers, and our objections would relate exclusively to their nomination for this specific role.

We certainly do not wish to cause any embarrassment as your nominees have not, to our knowledge, provided their consent for a public process in which the merits of their suitability are discussed. We can, however, provide you with these in a separate correspondence for verification by the nominees, should you agree to respect its confidentiality. We are genuinely of the view that the sort of calibre and experience of the nominees is suitable and that the conflicts identified from our initial research on each individual may have been overlooked unwittingly. However, the situation that has arisen does help illustrate the value of each of us providing sufficient time for a comprehensive search and review of facilitation candidates, based on a pre-agreement on the criteria for selection, specifically the core criterion of nominee "neutrality."



Ventora Development

Encouragingly, we are making good progress with the selection of candidate nominees that we hope to propose, and we expect to provide these shortly.

We hope that this gives you sufficient time to review our proposed definition of neutrality, give further attention to the candidate names that you have put forward or, given the details above, future candidate names you would like to put forward instead.

Separately, we are hoping to receive a response from you regarding the status of the defamation proceedings in the DRC. Your letter from 15 March 2023 stated that the withdrawal of these proceedings is a matter of concern for your organisation, and we have moved swiftly to address these concerns in France and the DRC. As you know, and we have reiterated in person and in writing, the DRC legal process requires mutual withdrawal. We await either your support to proceed with the process of withdrawing the proceedings in the DRC, or your confirmation that the proceedings should continue with all parties involved.

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

Very best,

Ventora Development (Communications Team)



Letter 19.6.23

Congo pas à Vendre <corruptiontuerdc@gmail.com>

23 juin 2023 à 09:43

À : Ventora Development <[REDACTED]>

Cc : [REDACTED]

Bonjour,

Nous accusons réception de votre courrier.

Nous continuons à attendre votre liste de facilitateurs. Vous accusez désormais un retard de 15 jours par rapport au délai que vous aviez vous-même proposé. Rien ne devrait vous empêcher de proposer une liste qui réponde à votre définition.

Nous attendons votre réponse d'ici la fin de la semaine.

Bien à vous,
Le CNPAV

|



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

26 June 2023

Dear all,

We confirm receipt of your email dated 23 June 2023. We consider your silence as confirmation of your acceptance of our recommended definition of neutrality, and our expectations that any nominee for a meeting facilitator will meet certain requirements of independence, impartiality and integrity. This is good to know. It is only now, with this confirmed, that we can each continue our search for willing and appropriate candidates.

The date you suggest in your email of Friday was put forward by us as an indication of the expected timeframe within which we aimed to provide suggested facilitator candidates. Any perceived delay in our communicating potential facilitator candidates is misplaced, and ultimately should not hamper this collaborative process we are working on together with you.

We are certainly of the view that this progress, achieved at the end of last week, was worth waiting for. Now we can jointly return to our respective 'drawing boards' and consider new suitable nominees that meet the above mentioned criteria, to be shared in the spirit of good faith and progress in the near future.

We await further information from you in regard to the second topic of our letters of 14 June and 19 June 2023 regarding our offer to end the DRC defamation action and our request for progress on your part.

Please rest assured that we remain committed to continuing our constructive dialogue as we mutually seek to ensure the very best outcome for the DRC and its people.

Very best,

Ventora Development (Communications Team)



letter dated 26.6.23

Congo pas à Vendre <corruptiontuerdc@gmail.com>
À : Ventora Development <[REDACTED]>
Cc: [REDACTED]

30 juin 2023 à 09:29

Bonjour,

Nous accusons réception de votre lettre et continuons à attendre votre liste des facilitateurs.

Bonne journée,
La coalition CNPAV



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

6 July 2023

Dear all,

We are writing to you further to the press release issued by CNPAV on Monday 3rd July relating to our recent interactions. It is regrettable that you have chosen to present as fact some information in your statement that is clearly either a misrepresentation of the real circumstances or an embellishment of a perceived position you wish to present, which bears little resemblance to the actual situation as things stand. We cannot accept this. Not only is it misleading, but more specifically it suggests that your engagement in our dialogue is carried out in bad faith.

Littered with errors, erroneous content and egregious examples of falsehood, your press release initially accuses Mr Gertler of past activities that he has and continues to dispute, yet you present them - in subjective terms - as facts. They are not. Your prejudicial and uncorroborated statements suggest that you are not seeking to engage with Mr Gertler in an objective, open and transparent dialogue, as you have previously suggested. To be clear, just as Mr Gertler stands behind the unprecedented settlement agreed between Ventora and the DRC just over a year ago, he remains faithful to this process of engagement and dialogue with international and national civil society.

Withdrawal of recent defamation cases

Your description of the status of the defamation trial in DRC is a blatant manipulation of fact. Following your request on 15 March 2023 for a “halt to all legal process”, on 13 April 2023 Mr Gertler announced the suspension of recent defamation cases. He took this decision on the basis and for the reasons below (all of which have been described to you in previous correspondence and press releases):

- The announcement of the suspension of recently-initiated defamation proceedings was made in order to enable an environment more conducive to an open and transparent engagement with you, despite the merits and legal basis of all the litigation cases he initiated.
- We have moved swiftly to action this in both France and the DRC. In our letters to you of both the 14th and 19th June, we highlighted how the process to halt a DRC criminal case such as this requires mutual action of the parties.
- At the last meeting between lawyers on 12 June 2023, your lawyers suggested to Mr Gertler’s lawyers that Mr. Gertler withdraw from the case, meaning the proceedings would continue but without Mr. Gertler being represented. That is illogical and in direct contradiction to your initial request to “halt” all proceedings. Having agreed the pitch on which we are playing, you have now moved the goalposts.



Ventora Development

- Whilst Mr Gertler takes the steps to enable a constructive environment for engagement, you are taking actions seemingly determined to ensure no such environment can exist. This appears to be consistent with your pattern of bad faith behaviour and is also demonstrably prejudicial to Mr Gertler.
- To be absolutely clear, Mr Gertler's offer that the case be completely withdrawn remains. It is now with you to instruct your lawyers to work with Mr Gertler's legal team to make sure that the case does not proceed, as the legal convention would require a matched commitment is needed from both sides. This is the only possible way to 'halt' legal criminal proceedings under DRC law.
- If you do not wish to participate in a mutual halt of the case, then the case will indeed continue with all parties involved. Ultimately, this is now your decision.

Positive Steps towards a transparent engagement with NGOs

Moving now to our efforts to set up a meeting between Mr Gertler and yourselves. We are disappointed at your unilateral decision to issue a public statement and do not feel it to be a demonstration of your acting in good faith. We are very comfortable that we have been engaging positively in order to ensure the meeting we both seek to arrange is structured in a way that ensures both parties are able to have an open, honest and effective dialogue. Our suggestions are constructive. They are borne of a wish to ensure that all parties can participate without fear or favour. We are not convinced that any nominee that is presently or previously funded by, or associated with, any one of your members can have that independence. It stands to reason that a neutral effective facilitator should have no direct or indirect links whatsoever to either participating party. Out of utmost respect for the nominees you mentioned in your correspondence, we chose not to cite the exact conflicts that became apparent following an initial review of your suggestions. It would not be sensible or indeed fair to embarrass these talented people with specifics, but if you continue to promote misrepresentations of the real circumstances, we may be forced to explain our views and detail our objections.

You are quick to seek a public profile and denigrate Mr Gertler as part of your campaign against him, yet you are being disingenuous as you also state that you want a dialogue. If you had concerns about the nature or content of our correspondence and wish to be a participating party in a formal and effective facilitated meeting, we would have hoped that you would have expressed your views directly to us. Given the previous hostility towards Mr Gertler from your various entities, it is reasonable for us to try and structure this dialogue in a careful, considered manner. We do not accept your dismissal of considerations that must be discussed to ensure this: taking time to ensure that the meeting is the best it can be should be our collective ambition. We believe that being hostage to "deadlines" which you seek to press upon us will not serve this process well. However, we explained in our letter of 26 June 2023, we are seeking nominees for the facilitator of our meeting to share with you shortly.

Despite our disappointment at your decision to publicly air, rather than privately share, your concerns – just as you did on the 2nd of June, which suggests a pattern of bad faith behavior - we remain committed to working towards a constructive dialogue between us. However, given this latest



Ventora Development

development and the content of your press release, its misinformation and inflammatory statements, we are now unclear as to whether you still wish to proceed.

Please let us know your intentions and whether we are able to continue our dialogue as we mutually seek to ensure the best outcome for the DRC and its people.

We trust that, as previously, consistent with the openness of our communication and dialogue, you will make our correspondence available using the same media you deploy.

Very best,

Ventora Development (Communications Team)

Letter Dated 06.07.2023

Congo pas à Vendre <corruptiontuerdc@gmail.com>
À : Ventora Development <[REDACTED]>

10 juillet 2023 à 20:10

Bonjour,


Merci de votre message. Pour le dialogue, nous avons transmis la liste des facilitateurs et l'agenda depuis le 1 juin. Notre communiqué indique clairement que la responsabilité vous revient de montrer que vous tenez à sa tenue:

“Si M. Gertler souhaite toujours tenir un dialogue, nous estimons qu'un consensus sur l'ensemble des modalités - facilitateurs, agenda, date - doit être atteint d'ici le 15 juillet. Nous réitérons l'offre pour un échange préparatoire afin d'atteindre un consensus dans les deux semaines à venir. Quant au dialogue lui-même, nous estimons qu'il doit se tenir avant la fin du mois d'août.”

Nous attendons donc vos démarches pour arriver à un concensus avant la fin de la semaine. Pour rappel, la liste des facilitateurs était due il y a plus d'un mois.

A défaut, nous concourrons que vous ne tenez pas au dialogue.

Excellente journée,
Le CNPAV





Ventora Development

To: Congo n'est pas à 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 CNPAV)

The Sentry

14 July 2023

Dear all,

Thank you for your brief email of 10 July 2023, of which we confirm receipt. We felt it important to reach out following your press statement of 03 July 2023 to express our disappointment at what we consider to be a bad faith action that runs counter to our apparent mutual efforts to establish an open, honest and effective dialogue ahead of a joint meeting in the near future. We urge you to consider, again, the consistent views expressed and reiterated in our previous correspondence, which appear not to be recognised and frankly ignored by your coalition. At the risk of repeating ourselves and to emphasise our goodwill and intentions, we again assert our position below.

Positive steps towards a transparent engagement

Despite your decision to publish misleading accounts of our correspondence without prior warning, we would like to re-emphasise unequivocally Mr Gertler's continued commitment to working towards a positive and productive dialogue in a meeting between the two parties, as well as his resolute commitment to securing the best outcome for the DRC and its people.

The deadline you have unilaterally set is an entirely arbitrary one. As we have said previously, it appears to be driven by a desire from your side to fast-track this mutual engagement and dialogue process. This joint meeting in which all parties are on the record to participate, is a departure for both of our organisations. As such, it should be carefully and transparently undertaken, as it has significant ramifications for the people of the Democratic Republic of Congo, who ultimately are and always should be, the beneficiaries of any cordial agreement or action plan arising from our dialogue.

When I invited you to engage in such a meeting, I did so with the view that we could sit down together and create a new dynamic for change. This presents a unique and significant opportunity for us to work together to support and enhance the DRC's ability to take control of its resources and wealth.

Your agreement to this offer was heartening and your continued dialogue encouraging. We remain at the virtual table and are resolved to stay here. It is for this reason that we are emphasising the importance of planning and executing this important process correctly – rather than with undue haste.



Ventora Development

Therefore, having now reached an agreement on the criteria for an appropriate facilitator, in particular the need for an objectively neutral figure with no links, either direct or indirect, to either party, we are in a position to finalise our shortlist. Once we have done so, we will reach out to our shortlist of proposed facilitators, inform them of our desire to suggest them for this role and seek their initial consent to have their names put forward. We will send through our suggestions for facilitators by the end of this month.

You suggest that if we provide no names of facilitators by your arbitrary date of this Friday, we would be somehow in breach of our previous agreements, or unwilling to engage. This is wrong and would be a misrepresentation of the facts. Should you publicly express this myth, you will be wittingly misleading the people of DRC. To be clear, this letter and the many before it in this on-going dialogue are a true reflection of our conviction that this process must be executed correctly, and does not in any way reflect a desire to step away from creating a successful meeting, facilitated independently and with the primary purpose to serve the people of the DRC and protect and preserve their future.

Defamation proceedings

We are disappointed to still not have any clear indication of your position regarding Mr Gertler's offer for the defamation case in DRC to be completely withdrawn, despite numerous requests in our previous four letters.

So that you are in no doubt about the outstanding issue, we are awaiting clarification from you on whether you are willing to agree to a mutual withdrawal of the case as required in accordance with DRC law, to finally bring these proceedings to a halt, something you requested in April 2023.

A continued failure to indicate your position with regards to mutually withdrawing from the defamation proceedings is preventing us from drawing this matter to a close. We fail to understand your reluctance to engage on this issue, especially when it would fulfil your clear request to halt the legal process. We would be grateful for rapid and definitive clarification on your position.

We look forward to moving forward with our dialogue as we mutually ensure the best outcome for the DRC and its people. The historic Settlement Agreement that I reached with the Government of the DRC, which would be the subject of our meeting, involved a consensual transfer of billions of dollars in cash and assets for the benefit of the people of the Congo. As an unprecedented agreement between a state and a private entity, it has the potential to bring huge benefits to the Congolese people and to serve as a model for the future resolution of issues in similar circumstances in the interests of local populations in this region and beyond.

We also trust that consistent with the openness of our communication and dialogue, you will make our correspondence available using the same media you deploy.

In conclusion, we are requesting:



Ventora Development

- That you refrain from the unilateral publication of statements containing erroneous and misleading accounts of our correspondence, with a view to maintaining a constructive and effective dialogue.
- That you stop publishing your letters selectively, and instead make all our correspondence available to the public in full through your usual platforms and channels.
- That you submit new names of objectively neutral candidates for the role of meeting facilitator for our consideration, free from conflict of interest.
- That you engage with our attempts to mutually suspend defamation proceedings in the DRC, in line with Mr. Gertler's offer and your request from March 2023, and in accordance with DRC law. We urge you to clarify your position on this issue as a matter of urgency.
- That you confirm that you remain willing to work together to achieve an open, honest and transparent discussion at the joint meeting in the near future.

Very best,

Ventora Development (Communications Team)



Ventora Development

To: Congo n'est pas à 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 CNPAV)

The Sentry

25 July 2023

Dear all,

We are writing to you further to our letter dated 14 July 2023, and in respect of our joint ambition to arrange a meeting to review and discuss the historic Settlement Agreement reached between the DRC Government and Ventora Group in 2022. We remain firmly of the view that open and transparent engagement of this kind is instrumental to ensure the unprecedented Agreement, which involved a consensual transfer of billions of dollars in cash and assets to the DRC, results in the best possible outcome for the people of Congo.

Candidates for the role of meeting facilitator

As per our earlier commitment, we have undertaken an extensive search for suitable candidates that would be able to fulfil the key role of facilitator for our meeting. As promised and to show we are taking this process seriously, we have dedicated significant effort and careful attention to find nominees who fulfil the criteria of independence, impartiality, integrity, and, above all, neutrality, as defined in our letter of 14 June 2023. We believe that we have successfully identified two individuals whose experience, character and circumstances meet these essential criteria.

As previously discussed in our correspondence, it is our priority that this process does not risk a detriment to the reputation of our nominees.

We would therefore like to initially provide you with a clear understanding of our nominees' background and credentials for consideration. Should you find their profiles suitable for the role of facilitator in principle, we are prepared to ask their permission to name them and will provide their names to you in a separate confidential communication. This would require you to commit in writing to respecting the confidentiality of the nomination and to agree that you shall not publish their names without our or their approval.

Our proposed candidates for the role of facilitator are as follows:

1. A senior person within the judiciary of the Democratic Republic of Congo, who has held key positions in the Republic's Supreme Court and Constitutional Court. A distinguished public prosecutor with almost 50 years of experience, the candidate has served as General Prosecutor, General Advocate and Attorney General in multiple courts throughout the country over the last 25 years. The candidate holds honorary



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distinctions of the highest level in the DRC. The candidate has represented the DRC judiciary in delegations to Supreme and Constitutional Courts of various countries around the world, including the USA, France, Italy, Belgium and Japan. The candidate has specialist expertise in the questions of constitutional law and international human rights.

2. A Professor of Law at a University in East Africa, who has held the highest legal positions in his country and has deep experience in the areas of mining, public procurement, civil and commercial litigation, arbitration, legal reform, legislative drafting and human rights. The candidate has over 35 years of experience in oversight and handling of arbitration proceedings at national, regional and international level. A Doctor of Philosophy (PhD) and Master of Laws (LLM), they were educated in East Africa and at a leading US law school. The candidate is a Chartered Arbitrator for the Chartered Institute of Arbitrators (CIArb) and a member of various recognised arbitration institutions, including the Permanent Court of Arbitration (PCA), the Africa Arbitration Association (AAA) and the London Court of International Arbitration (LCIA) African User's Council. They are a former judge to the African Court on Human and Peoples' Rights and a former member of the UN Human Rights Council Working Group on the issue of human rights and transnational corporations and other business enterprises.

We look forward to receiving your views regarding these persons, their suitability in principle, and your commitment to confidentiality in respect of naming the candidates. We hope that you agree with our view that these candidates are suitable for the vital role of facilitator, so that we can move forward with planning our dialogue.

Matters we are awaiting your responses on

We are disappointed that you continue not to issue substantive responses to critical issues raised in our previous letters, some of which have gone unanswered for more than a month now. It is vital that we can make progress on these issues and your continued refusal to engage is not conducive to the spirit of cooperation in which we are seeking to act. We therefore would like to reiterate the following requests, which you have failed to acknowledge to date:

- That you refrain from the unilateral publication of statements containing erroneous and misleading accounts of our correspondence, with a view to maintaining a constructive and effective dialogue.
- That you stop publishing your letters selectively, and instead make all our correspondence available to the public in full through your usual platforms and channels, as was the case previously.
- That you submit new names of objectively neutral candidates, that meet our now agreed criteria, for the role of meeting facilitator for our consideration.



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- That you engage with our attempts to mutually suspend defamation proceedings in the DRC, in line with Mr. Gertler's offer, and your request to halt the legal process from March 2023, and in accordance with DRC law. We urge you to clarify your position on this issue as a matter of urgency.
- That you confirm that you remain willing to work together to achieve an open, honest and transparent discussion at the joint meeting in the near future.

We look forward to progressing discussions further with the aim of holding a productive, good-faith meeting to discuss the

Very best,

Ventora Development (Communications Team)



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To: Congo n'est pas à 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

10 August 2023

Dear all,

We are writing to you further to our letter of 25 July 2023, in which, amongst other things, we nominated our suggested candidates for the role of facilitator for your consideration for our joint roundtable meeting, on which we have been corresponding since 7 February 2023. While we appreciate that August is traditionally a time of holiday for many members of your Coalition based in Europe, we remain committed to arranging this important meeting and therefore are surprised as to the delay in your response. Our letter followed your email insistence that we submit nominees without delay. Having offered suitable and credible candidates, we now await your response.

Our records show that you are not engaging in the substantive matters set out in our previous three correspondences. Our concern now is that your commitment to such a dialogue and a facilitated meeting may be diminishing. We sincerely hope that this is not the case.

To help you plan your joint response, may we remind you that we are still to receive your answers in relation to the following seven questions:

1. Whether you agree that going forward you will refrain from the unilateral publication of statements containing erroneous and misleading accounts of our correspondence, with a view to maintaining a constructive and effective dialogue.
2. Whether you will stop publishing your letters and statements selectively, and instead make all our correspondence with you on this matter available to the public in full through your usual platforms and channels.
3. When we should expect the updated list of objectively neutral candidates from your side, who would meet our now agreed criteria for the role of meeting facilitator.
4. Whether you will engage with our attempts to mutually suspend defamation proceedings in the DRC, in line with Mr. Gertler's offer, your request to halt the legal process from March 2023, and the DRC law. We urge you to clarify your position on this issue as a matter of urgency.
5. Whether you remain willing to work together to achieve an open, honest and transparent discussion at the joint meeting in the near future.
6. Whether you have had an opportunity to review our proposed candidates for facilitator of the meeting and believe they are suitable in principle against our mutually acceptable terms of independence.
7. Whether you agree to respect confidentiality in respect of naming our candidates at this stage, so that we can share their names with you and move forward with the planning our dialogue.



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As emphasised throughout our correspondence, good faith engagement on each of these matters is vital for organising a productive dialogue, as we mutually seek to ensure the best outcome for the DRC and its people.

We are keenly awaiting your response.

Very best,

Ventora Development (Communications Team)



30 August 2023

Dear Ventora Development Communications Team,

We acknowledge receipt of your letters of 25 July and 10 August 2023, and we would like to reiterate our willingness to arrange a meeting with Mr Gertler in response to his offer to present us with “all documents, materials and calculations that [we] might wish to see regarding [his] business activities in the Democratic Republic of Congo,” (as stated in his letter of 17 March 2023, and in subsequent correspondence).

Please find below answers to your questions in the hope that we can move forward with the meeting. At this stage, we believe it would be productive for a number of representatives from our side to hold a virtual meeting with your team to discuss the appointment of facilitators, the modalities of the meeting and next steps. We hope you agree that this will be more efficient and will help move us forward. If you agree, could you please let us know preferred dates and times between now and 15 September that would work for you.

In the meantime, here is our response to the matters raised in your correspondence:

- We see no problem in publishing all our correspondence in a chronological order and we will endeavour to do so.
- We still do not understand the reasons that led you to reject our list of candidates to facilitate our meeting, which we submitted on 1 June 2023 after receiving their approval. In order to help us move forward, we await your explanation as to why the candidates in question would not be “neutral”. We agree that you could communicate this to us confidentially or during our virtual meeting.
- We have reviewed the profiles of your proposed candidates – while we believe our facilitator should not be linked to the Congolese judiciary (making your first proposed profile not suitable), we think that the second proposed profile might be suitable in principle. We would appreciate it if you could confirm the individual’s name so we can come back to you with a final decision.
- On the confidentiality of the candidates’ names at this stage: we accept that candidate names be kept confidential until all parties agree to the selection. Could you clarify

whether you will agree to publish the name of the facilitator once we have reached a mutual agreement?

- We are fully committed to an “open, honest and transparent discussion at the joint meeting in the near future,” as we have always been, and we hope that Mr. Gertler will honour his pledge to present us with all the documents and contracts relevant to his businesses in Congo so we can “review past transactions with full transparency and openness,” (as stated in his letter of 17 March 2023, and in subsequent correspondence).
- As civil society groups we are committed to maintaining a constructive dialogue and it is our mandate to make our research findings available to the public. However, as you know, it is our practice to seek comments and responses from the parties involved in our reports and we will continue to do so before publication.
- On the defamation proceedings in Congo against Resource Matters and our colleague Jean-Claude Mputu: we would like to refer you to Resource Matters and Mr Mputu’s lawyers’ separate letter dated 13 July 2023 as we believe that any matter related to these proceedings should be directly dealt with through their lawyers to avoid any misunderstanding.

Yours 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



Ventora Development

To: Congo n'est pas à 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 CNPAV)

The Sentry

13 September 2023

Dear all,

Thank you for your letter of 30 August 2023, which we were grateful to receive after several weeks of silence from the Coalition. Your confirmation that you remain willing to proceed with arranging a joint meeting and are committed to establishing an open, objective and transparent dialogue is encouraging. For the avoidance of doubt, we reiterate our commitment to fulfilling this mutual ambition.

In this spirit, we welcome your suggestion of a preliminary call between representatives of both parties in order to determine the administrative details for a meeting between Mr Gertler and yourselves. Given that this brief session will be a straightforward discussion of logistics, protocols and organisational items, we anticipate that the virtual meeting will only require one person per party on a telephone call.

We are sure that you will appreciate that these administrative measures must be discussed freely by both participants, without the pressure of their statements being open to misinterpretation and publicity. We would therefore suggest that the conversation happens on a without prejudice basis. By this we mean that any agreements that are made about administration and logistics for the round-table meeting are to be shared only within the coalition - much as they will be shared purely only with Mr Gertler's admin, operational and advisory team, and not externally. Likewise, the agreements made by the two administrators and operational planning individuals will not be published or made publicly available by either party. This will prevent the outcome of what is purely a planning meeting potentially prejudicing the substantive meeting yet to be arranged and facilitated. We are happy to outline brief terms of reference for this conversation in a separate letter for your consideration, to ensure that we are fully aligned on the conditions and they are agreed in writing.

Your agreement to publish all of our correspondence in chronological order, as was previously the case, is also encouraging. We look forward to seeing this happening as a matter of some urgency and hope that, going forward, you are able to maintain full and transparent publication of our correspondence, with the exception of that which is deemed by all parties as without prejudice or is mutually accepted as confidential.



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Turning to the other points raised in your letter, and in particular one we have asked you to consider as 'material' in each of our recent correspondence, we remain especially concerned about the ongoing lack of resolution on the matter relating to the defamation proceedings in DRC. In our view, the lack of a mutually acceptable conclusion to this fundamental matter continues to prevent us jointly moving forward with a constructive dialogue free from distraction or dispute.

To provide some context to this situation from our perspective, earlier this year, your coalition expressed how you were "extremely concerned" about the lawsuits in France and DRC. In your letter to Mr Gertler in March of this year, you said that 'for such a meeting to be productive, there would need to be a "halt to all legal process" and that the lawsuits represented a "discrepancy" between the "spirit of transparency and collaboration you [Mr Gertler] invoke in your letter".

Since April of this year, Mr Gertler has acted swiftly, seeking to bring all proceedings to a close, making clear his concurrence with your position that these lawsuits must be halted. In France proceedings have halted. In DRC, they have not, and cannot be halted until there is affirmative action by both of the parties within the proceedings. This is defined in DRC law.

Therefore, in good faith, to enable the very first step towards the pre-meeting we have mutually agreed to hold, it is logical that the parties engaged in the DRC proceedings BOTH carry out the steps required to halt the Court process. As you will be aware, our legal representatives in DRC have sent a letter to the legal representatives of the parties cited in the Court papers today, re-iterating Mr Gertler's desire to achieve a mutual withdrawal of the defamation case and thus bring proceedings to a halt. Given the context above, it is our view that both parties now need to do all they can to ensure this happens. This step will be fundamental to building the right environment in which our nominated administrators can commence their planning and operational dialogue. In line with your previously expressed priorities, the discussion of organisational details cannot proceed until we achieve clarity on your position in relation to the defamation cases.

We look forward to receiving your response as we mutually seek to ensure the very best outcome for the DRC and its people through constructive dialogue.

Very best,

Ventora Development (Communications Team)



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

15 September 2023

Dear all,

Further to our letter of 13 September 2023, we are writing to inform you, out of courtesy and in good faith, that today marks the eve of one of the most significant and holy periods in the Jewish religious calendar. As you may be aware this commences with Rosh Hashanah (Jewish new year) followed by Yom Kippur, the holiest day in the Jewish calendar, and concludes with the festival Sukkot. These constitute a continuous holy period, which will run from 15 September to 8 October.

Mr Gertler and his team will be observing this full period of Jewish festivals.

We would therefore request that that the Coalition uses this time to make and communicate its decision in relation to the defamation proceedings in the DRC in accordance with the letter from Ventora and our legal team in the DRC on 13 September. This will enable our dialogue to continue without delay once the Jewish festivals are over, as we seek to arrange a joint meeting through open and constructive mutual engagement.

Once we return from the holiday period, we hope that we will expediently reach an agreement on the terms of reference for holding a planning and logistics conversation on a without prejudice and confidential basis between representatives from both sides in the near future.

We thank you in advance for your consideration and understanding.

Very best,

Ventora Development (Communications Team)