



SARW concerned on the lack of transparency in the sale of Freeport (TFM) shares to China Molybdenum company

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The opacity surrounding the sale of Freeport-McMoran shares into Tenke Fungurume Mining (TFM) to China Molybdenum has raised serious concerns from the population.

With an annual production of more than 200,000 tons of copper and nearly 16,000 tons of cobalt, TFM stands as the biggest mining company in the DRC. The expansion of TFM is due to the financial support from Freeport, who inherited the project from Lundin.

The sale raises the following major concerns:

1. The lack of transparency in the process to conclude the sale of Freeport shares, including failure to comply with article 37 of the Amended Mining Agreement. Neither the State nor its mining company, GECAMINES, were involved in the discussions that led to the sale. However, According to the Mining Agreement, the Congolese State must give its prior approval. GECAMINES, as a shareholder with Freeport into TFM with a 20% shareholding in TFM's issued capital, says they were not informed prior to the transaction. Freeport's behaviour is tantamount to lack of consideration and respect for the host state and its people.
2. The sale happened only two years after TFM started paying the income tax. It is therefore likely that this transaction has adverse effects on all the taxes and levies to be collected by the Public Treasury from the company.
3. It is not quite sure the new buyers will comply with all local development mechanisms put in place by Freeport in this project. Despite the assurance given by Freeport in its press release issued on 9 May 2016 indicating that the same long-term development objectives will be pursued by China Molybdenum, SARW fears that these development mechanisms will not be respected by CMOC, due to negative experiences involving Chinese companies for local development.
4. Disregard of human and communities rights characterising Chinese investors raises justified concerns within the Congolese opinion. It is necessary that, as preconditions, the Government formally requests from the new buyer to respect human rights, the rights of the employees and live up to the corporate social commitments made by Freeport McMoran.

5. The development of all the phases of the TFM project remains hypothetical. In TFM feasibility study, it was planned that three phases would be conducted in the project. To date, only two phases have been delivered by TFM, even exceeding investments forecasts (rising from 2.5 billion Dollars to 3.1 billion Dollars). SARW fears that the third phase might not be implemented or that it will with additional investments; which may deprive the Congolese State of levies, taxes and other fiscal dues which would serve to offset the injected investments.

SARW therefore call on the Congolese Government to:

- carefully analyse this situation, because in the face of new strategies or initiatives from mining companies, the Congolese mining sector runs the risk of not contributing enough to the country's economy;
- ensure that this sale will not have any adverse effect on all the levies and taxes to be collected by the Public Treasury from the company;
- demand for a new transaction on the sale of Freeport shares in transparency; and
- discourage this practice whereby mining companies sell their shares just when they become liable for income taxes.

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