

Dear President Mosbacher and the OPIC Board of Directors:

On behalf of Environmental Defense and the Center for International Environmental Law, please find comments below regarding the proposed finance and insurance proposal for the Tenke Fungurume Copper Mining Project to be considered at the Board of Directors meeting on July 12, 2007. We wish to ensure that you are apprised of the current status of the principal contract for the Tenke mining project, the validity of which is being reviewed by the Democratic Republic of Congo (DRC). Such a review could affect the investment risk of the proposal to OPIC.

In May of this year, the Government of the Democratic Republic of Congo announced its intention to review mining contracts signed over the past decade during the war and under the transitional government in place until last year's national elections. This review process, officially underway on June 18th, responds to concerns raised in various World Bank audits, independent studies, and a DRC parliamentary commission report regarding the fairness and legality of the contracts. The Tenke project is one of the largest of the 60 contracts being considered under this review process.

Alleged irregularities associated with the acquisition and terms of the Tenke contract require careful assessment. The World Bank itself has noted potential concerns about mining contracts in the Congo, including a lack of transparency in the negotiation and awarding of deals, undeclared conflicts of interest, the inclusion of ill-defined "management" fees and other questionable payments, a failure to properly assess Congolese assets and contributions to the deals, and the inclusion of terms that are highly disadvantageous to the Congolese Government.

In light of the questionable validity of the Tenke contract, OPIC approval of the project at this time could be viewed as an irresponsible investment. Furthermore, approval prior to completion of the review process could be interpreted as a signal to the DRC Government that the United States does not respect the good governance and transparency initiatives exemplified by the DRC's contract review process. As called upon by an international coalition of organizations involved in the matter (see attached statement), OPIC ought to endorse a rigorous contract review process that identifies any unjust deals inherited from the war and the transition period and strengthens the democratically elected government's capacity to rebuild the country.

We are concerned, as well, that OPIC's efforts to review and respond to the environmental assessment prepared by the applicant fail to satisfy the requirement that OPIC "prepare and take fully into account an environmental assessment" of any proposed program or project (22 USC § 2151p, as applied via 22 USC § 2191). Under 22 U.S.C. § 2197(m), OPIC is required to "take into account" any comments (including the attached) it receives on environmental impacts for Category A projects prior to Board approval. While we recognize that OPIC staff works quite diligently to consider and respond to comments, providing a window for consideration of comments of little more

than 24 hours prior to board approval (given the EIA comment deadline of July 10) could present challenges to ensuring meaningful and careful consideration of all comments received regarding the project. We respectfully request that the Board ensure that OPIC genuinely takes into account the comments submitted in connection with the EIA for the Tenke mining project prior to approval.

Additionally, in the absence of adequate information about financing for the project, we cannot determine if direct financing being provided for the project is consistent with the legal requirement of 22 USC § 2194(c) that the aggregate amount of loans to finance operations for the mining or other extraction of any deposit of ore or other nonfuel minerals does not in any fiscal year exceed \$ 4,000,000.

In light of the DRC's ongoing contract review process and our previously submitted concerns, we hope you will agree that approval of the mining project at this time is not warranted.

We strongly urge you to defer consideration of the Tenke Fungurume Copper Mining Project until the contract review process has been completed and OPIC has received a satisfactory response to the human rights and environmental concerns raised in the previously submitted comments. We further implore OPIC to publicly support a rigorous and complete contract review process by the DRC Government as an initiative that is exemplary of good governance and transparency.

Respectfully submitted,


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