The truth about the lies of NGOs in the Democratic Republic of Congo

Or how under cover of morality one would like to deprive the country of its sovereignty over its raw materials

November 2018
The truth about the lies of NGOs in the Democratic Republic of Congo

Or how under cover of morality one would like to deprive the country of its sovereignty over its raw materials

NOVEMBER 2018
CONTENTS

FOREWORD .................................................................................................................. 5

INTRODUCTION .......................................................................................................... 11

FIRST PART

The lies of NGOs ......................................................................................................... 12

1. The lies about the notoriously non-transparent nature of his finances .................. 12
2. The lies of hundreds of millions of dollars (750 million) that would be missing in the 2011-2014 accounts .......................................................... 13
3. The lies about the reality of the figures advanced «more than half a billion dollars, which would have been unreported» ........................................... 20
4. Lies about Mutanda and Kansuki’s undervalued sales that would have cost the DRC $630 million ................................................................. 22
5. The lies about the small contribution of GECAMINES to the state budget .......... 24
6. The lies about GECAMINES ‘contribution to its debt, its employees, its investments... 26

SECOND PART

Why does not mine money benefit the DRC more widely? ........................................ 32

2. The system put in place by the multinational companies of the sector, aims to deprive the State and their partner GECAMINES profits or dividends ........... 35

THIRD PART

Bias of NGOs .............................................................................................................. 40

1. The approximations on the management of the sector of the Center Group (Likasi)... 40
2. The lies about interest paid twice by GECAMINES ................................................ 43
3. First Quantum Minerals ......................................................................................... 44
4. GECAMINES and vulture funds ........................................................................... 46
5. GECAMINES, his right of first saying and his right of preemption ....................... 48

CONCLUSION

No one could ever say he was not informed ............................................................... 52

NOTES ......................................................................................................................... 54

ANNEXES .................................................................................................................. 55
Thanks to a new report published by Enough Project, a non-governmental organization (NGO) on October 30, GECAMINES has once again been accused of allegedly diverting hundreds of millions of dollars generated by its partnerships to other purposes than its object.

This umpteenth accusation is part of a long series of reports, written by NGOs all part of the same nebula and taken over by the Congolese and international press, which for several years have not stopped the trial of Governance of the mining sector in the DRC to regret its weak contribution to the economic development of the country.

Their report is correct. The economic benefits of mining in the DRC do not contribute as much as they should to the wealth of our country. But their explanations are false, voluntarily biased to serve the same economic or political interests that all over the world have a negative eye on those states that wish to sovereignly decide the independent exploitation of the wealth of their country.

To discredit a regime or an organization, especially in Africa, for which prejudice is so widespread, nothing more commonplace than to accuse it of corruption. And who better to give credit to these accusations than these NGOs, new planetary consciousnesses. But what if, as some say, these NGOs would ultimately be only creatures used «as levers to manipulate public opinion or even to overthrow political regimes» and «allow de facto to install political regimes favorable».

It is this hypocrisy that GECAMINES wished to denounce in this report by taking again this argumentation always identical, and unfortunately still with charge, which allows everyone to give his opinion on the causes of underdevelopment in our country:

1. The DRC lives in a situation of underdevelopment despite a mining sector generating significant revenue.

2. GECAMINES would receive significant revenues from this sector that would not be traced in its accounts, nor would it have contributed to the State budget, the reconstruction of its production apparatus, the repayment of its debt, or the payment of its employees.

3. This money could therefore only have been diverted in favor of partisan political interests, and in particular for the benefit of power in the Democratic Republic of Congo, and would constitute de facto the cause of the underdevelopment of the country. And so the loop is complete.

Under cover of a demonstration that does not seem to suffer any challenge, the corruption of power would necessarily be the cause of all the ills of the DRC. It
should therefore dry up the main source by depriving it of control over the mining sector and its Portfolio Companies.

It is this logic, which today allows the international press agency Bloomberg to insert, as a global slogan in some of his dispatches on the DRC the following sentence, «One of the world’s poorest and most corrupt of abundant natural resources including copper, gold and oil, has not had a peaceful transition of power since gaining independence from Belgium in 1960».

According to these NGOs, and the interests that finance them, nothing would be more democratic and wealth-generating for the DRC, a country whose mining sector would be fully liberalized, subject to the law of supply and demand to through extremely favorable legislation, without public counterfeit.

This is the central thesis developed by another NGO, the Carter Center, in its report5: «State affair: Privatization of the copper sector in the Democratic Republic of Congo» which justifies by corruption and the absence of democracy, its wish to completely release the mining sector of the DRC and take it out of the grip of GECAMINES, which she calls «guardian of the temple». As if it was an insult to the Congolese.

The dream of the International Trade Association (AIC) would be resurrected, that of an extraterritorial zone escaping its legitimate owners. After the internationalization of the Amazon, why not the internationalization of raw materials in the DRC?

Unfortunately their reasoning is wrong and deliberately biased

- It is based on the simplistic premise that DRC mining money would be enough to get the country out of underdevelopment.

Even if all the profits generated by mining benefited the country, which is structurally impossible since 2002 because the mining of Congo’s mines is entrusted to foreign interests, this would be far from being enough to solve all the problems. Nevertheless, this money, as was the case when the DRC itself exploited its mineral resources, should actually contribute more to our development. But for that, it would already be necessary that its produced wealth is more shared than it is currently, what we will show in the second part of the report.
FOREWORD

- It assumes that GECAMINES would benefit from significant revenues that would have disappeared and would not have benefited the various stakeholders.

This is totally false, and this is what this report will demonstrate in its first part by tracing the funds supposedly missing in the financial statements of the company, and explaining the use that has been made of them.

- He finally draws the conclusion that this money can only have been diverted in favor of a local «kleptocracy», which would be the cause of the underdevelopment of the country.

What will become of their conclusion, if their assertions which base them prove erroneous?

Will they dare to question the postulate that it is not the so-called diversions, which are the root cause of the underdevelopment of the country and incidentally that corruption would not be the cause of all its evils?

Will they go so far as to assert that the country’s lack of revenue, and thus its chronic inability to meet its needs, is due to an unbalanced system of wealth distribution between powerful multinationals, backed by states, and the DRC. Will they dare to recognize that their obsessional activism against GECAMINES and the Congolese State finally leads to the perpetuation of an unbalanced system that contributes to keeping the country in a state of underdevelopment?

Of course not, because our critics know all this well and they play wonderfully their role of idiots useful for the benefit of global capitalism. Their only objective is the destabilization of the DRC to serve without hindrance, in the name of pseudo-democratic ideals, foreign demand for cobalt, coltan, copper, gallium, germanium and other strategic minerals that the world so badly needs to ensure its energy transition.

No one in the DRC understates the heaviness in the country, its difficulties, the omnipresence of administrative corruption that I denounce regularly and unequivocally in the context of my functions as President of the Federation of Enterprises of Congo. But I do not believe, as these NGOs try to convince us at length reports, the simplistic equation of corruption and the lack of democracy as the main cause of underdevelopment of the DRC. Moreover, if that were the
I believe much more in structural causes, which affect the whole of Africa, like the historical development delay of our continent which led to a deficit of infrastructures, of access to energy, to financing, to health and education, but also the weakness of our administration and the complexities of our business climate.

Unfortunately, in their democratic trance, these NGOs are concentrating their efforts only to look for straw in the eye of GECAMINES, without worrying about the beam in the international mining system in our country. They never establish any logical link between the country’s chronic fiscal deficit, the non-collection by the State of the fair return of income from mineral resources exploited by foreign partners in a quasi-monopoly since the end of the war and the resulting difficulties in terms of public action.

«Foreign investors have benefited more from the boom in the natural resources sector since 2007 than the Government and local producers.»

World Bank - Revision of the Mining Code Review, Observations and Comparative Analysis (April 2016)

It is therefore particularly regrettable that the only message sent by these NGOs to the opinions of the world is to try to make believe in the structural incapacity of our country to manage its mining heritage as a national strategic resource.

I recall that between 1967 and 1990, before two wars brought the country and its industrial apparatus to its knees and that the most beautiful deposits of GECAMINES were distributed for the benefit of foreign partners, the wealth of the Congolese mining sector benefited the people Congolese, some even say up to 70% of the country’s tax revenue. If this is no longer the case today, it is less because the sector would have been «privatized» for the benefit of Gécamines as these NGOs blame the DRC, because because the production of major partners, which n ’has never been so important - 1 092 000 tonnes of Cu and 74 000 tonnes of Co in 2017 - does not benefit enough, the Congolese State nor the Congolese people.

This does not prevent them in 2016 from continuing to regret that despite the adoption of the Mining Code of 2002, the sector is never fully liberalized and that the state, through Gécamines, has continued to «distort» competition. Just as the Carter Center regrets that «despite the reform of the mining code, and the creation of the mining cadastre, GÉCAMINES has benefited from exorbitant high privileges of common belief and has in fact continued to play, (...) the role of a parallel mining cadastre by keeping the country’s most interesting permits and expanding its permit portfolio.»

In fact, GECAMINES has, above all, since the 2000s, been forced to sell 32 million tonnes of copper and 3.5 million tonnes of cobalt to its partners, leaving it with less than 400 000 tonnes of certified resources. copper in the only Kamfudwa mine. Contrary to what is asserted, Gécamines is no longer for a long time able to distort anything.

Nevertheless, I only note that if Gécamines had become,
as they wish, a company like the others, the Congolese State would today be deprived of its sole lever of power, expertise and control over the mining sector.

The DRC would no longer have a structure capable of making our country’s rights prevail over international partners, as in the dispute between GECAMINES and the world’s biggest trader Glencore, in their JV KCC and resulted in including the cancellation of $5.6 billion of debt. The DRC could no longer hope to rebuild an efficient production apparatus capable of transforming Congolese subsoil wealth into tax revenue for the State, which its partners do not do at all, as will be described in detail in Part 2 of the report.

Far from the cartoons and outrages false published by NGOs and repeated reports, even by Congolese, who let themselves be abused consciously or unconsciously by those who can no longer be considered as enemies of the DRC. This situation therefore largely justifies the mining policy of the State. Initiated by the President of the Republic, Joseph Kabila Kabange, this led to the revision of the Mining Code of 2002 and the renegotiation in progress by GECAMINES of all its contracts with its partners.

It is this same observation which pushes the State to want to give back to the mining companies of the Wallet the means of their reconstruction so that the produced national wealth finally profits equitably with the budget of the Congolese State.

This report will therefore seek to demonstrate on the one hand that the accusations of diversion of which Gécamines is the target are simply untrue, and have as only objective to hide the attention of the real problems of our mining sector to allow the maintenance of a system of spoliation of the natural resources of the DRC.

I invite each and every one of you to observe the

children of the Lualaba, walking in rags in search of rats to eat, on a basement which every day is draining of its resources and to pose in conscience the question of who are the real ones responsible for the situation of these children.

Albert YUMA-MULIMBI
Chairman of the Board of Gécamines
INTRODUCTION

In the first part of this report, GECAMINES wanted to answer the accusations most often relayed by the NGOs and which constitute their main argument to deny him any right to continue to exercise his action. These accusations claim, among other things, that hundreds of millions would be missing from his accounts and that this money would not have been used for the good of the company or the state.

IN A SECOND PART, we will show why these NGOs are so eager to slander GECAMINES and the Congolese mining regime. Focused on their crusade, their only objective is to mask the imbalance between what would be reproached to GECAMINES, and what legally or not, the foreign operators take in the most absolute silence.

All the charges could not be dealt with in this report, as they are numerous and do not deserve it. «All that is excessive is insignificant,» said Talleyrand, a feeling that the constant reading of these reports can not fail to provoke the reader in good faith. In addition, the accusations are so numerous that it would unfortunately take several volumes to unravel the skein of approximations, innuendo, anonymous statements, documents consulted but not referenced and especially erroneous facts, which are so intertwined that it becomes difficult to separate the true of the false. THE THIRD PART of the report will be devoted to a few characteristic examples of the method used which should finally convince the reader of the voluntarily outrageous nature of the attacks of which GECAMINES is the object.

In terms of method, we would like to point out that this report was not based on reading hundreds of contracts, thousands of anonymous interviews, consulting thousands of pages of documents, as NGOs like to remind give credit to their writings, but only on GECAMINES’ financial statements and the EITI reports, which are official documents.
The most serious charges against us are:

➔ ‘GECAMINES’ «would be notoriously non-transparent in its finances».  

➔ ‘GECAMINES’ «would not have recorded in its accounts 750 million USD of its partnerships on 1.1 billion dollars collected between 2011 and 2014».  

➔ ‘GECAMINES’ «reportedly has signed three contracts that would have generated more than half a billion dollars in 2016-2017 but can not be traced».  

➔ GECAMINES reportedly sold Mutanda Mining and Kansuki Mine for less than their real value for $578 million and for extremely important profits for the buyer 428% and 682%.  

➔ «The contribution of ‘GECAMINES’ to the state budget between 2009 and 2014 would have been only 4.5 million USD».  

➔ «GECAMINES would have increased its debt of 725 million dollars, GECAMINES would not pay its employees and GECAMINES would not have invested in its production tool».  

1. The lies about the notoriously non-transparent nature of his finances

GECAMINES has its annual accounts voted at the General Meeting which validates them and which is chaired by the Ministry of the Portfolio, in the presence of the representatives of the Primature and the Ministry of Mines, who also exercise supervision over the company.

The financial statements of GECAMINES are certified annually, as required by the Law, by a qualified auditor, currently Mr. Foko, 1st Vice-President of the Order of the Statutory Auditors of DRC and President of the Order of Chartered Accountants of OHADA law and by external auditors, Price Waterhouse Coopers, who also certify GECAMINES accounts annually, prepared by its financial services.

GECAMINES cooperates with the Extractive Industry Transparency Initiative (EITI) (see Annex 1), which draws up a comprehensive annual report on financial flows between companies, and in particular those of companies in the State Portfolio. The reports of the EITI-DRC are publicly available on their website.

This participation of GECAMINES in the EITI initiative, consists in transmitting annually its Financial Statements that are, its balance sheet, cash flow statement and profit and loss account which are official accounting documents, and to answer the interrogations of the consultants in charge of carry out the verifications. The first official transmission was linked to the 2013 accounting year.

It is therefore particularly misleading to claim that GECAMINES is notoriously non-transparent in its finances simply because the State refuses to
transmit the Financial Statements of the Portfolio companies to NGOs whose only legitimacy to claim is that they give themselves in the name of their social object.

**2. The lies of hundreds of millions of dollars (750 million) that would be missing in the 2011-2014 accounts.**

This accusation is probably the most serious and the most widely reported by the media.

The NGO informs us that the EITI reports indicate that «GÉCAMINES received more than 1.5 billion dollars from its partners between 2009 and 2014, on average 262 million usd. More specifically, of the $ 1.1 billion that CMG was entitled to on the basis of its contracts between 2011 and 2014, $ 750 million can not be traced with certainty in the partnership records of the Crown Enterprise.»

With regard to the 1.575 billion dollars collected by GECAMINES during the period 2009-2015, GECAMINES notes a factual error in the calculations of this NGO. In fact, $ 1.294 billion was collected, including asset sales. This is an error of $ 281 million compared to the peremptory assertions of his report, probably intended to inflate artificially our figures to be able to better accuse GECAMINES to make disappear his money. This mistake is nothing compared to the accusations of disappearance of funds which this NGO accuses GECAMINES afterwards.

To be sure that its readers have understood, the NGO continues: «This lack of control pave the way for many anomalies in the accounting of Gécamines, nearly 750 m usd dollars supposed to come from partnerships in joint venture of GECAMINES between 2011 and 2014 would never have been registered as such on the partnership’s partnership registers» (p.7).

«A total of 750m would not have been properly recorded as revenue from the partnerships» (p.68).

Table 6 - «Significant revenues that appear to be omitted from the 2011-2014 partnership records, in millions of dollars» (p. 69)

Table 6 - «This summary of the significant discrepancies between payments to GECAMINES reported publicly and those actually recorded on the partnership accounts of the state-owned enterprise between 2011 and 2014 shows an amount of $ 736.5 million that appears to be missing in the registers of GECAMINES» (p.69).

In view of the seriousness of the alleged facts but also probably the lack of real credit that it attaches to its own assertions, the NGO does not risk however to assert too peremptory what it advances and uses the registry on purpose of the hypothesis and the mode of the conditional. This method is also a trademark of all these NGOs, who, in the affirmation, prefer insinuation. When we look specifically at the progress of citations in the report, we are forced to see that GECAMINES is simply accused of having removed $ 750 million:

- can not be traced with certainty in the partnership registers of GECAMINES
- would never have been registered as such on the partnership registers of the company
- that appear to be omitted from partnership registries
- that seem to be missing from GECAMINES’ records
The last sentence indicates that it is not only in the GECAMINES partnership registers that this $750 million would not be counted, which could be considered as a simple imputation error, but simply in the GECAMINES registers, as if these 750 million of the 1.1 billion that GECAMINES would have perceived over the period, had disappeared from the company. This is what constitutes the central thesis of these reports that to assert that the copper sector was privatized in the DRC in favor of a «kleptocracy».

The goal has been widely achieved and both the international and national press have widely echoed these claims, acting as a sounding board for national and international public opinion.


Having found the damage caused by these insinuations, but no doubt apprehended as facts established by many readers, we can ask ourselves the question of (I) where these figures come from and (II) why these $750 million in partnership revenue would be «missing?»

<table>
<thead>
<tr>
<th>ENTITY</th>
<th>TERM</th>
<th>MISSING MONEY</th>
</tr>
</thead>
<tbody>
<tr>
<td>TFM</td>
<td>2011</td>
<td>30 M USD</td>
</tr>
<tr>
<td>GTL</td>
<td>2012-2014</td>
<td>132 M USD</td>
</tr>
<tr>
<td>KCC</td>
<td>2013-2014</td>
<td>115 M USD</td>
</tr>
<tr>
<td>Mutanda Mining</td>
<td>2011</td>
<td>189 M USD</td>
</tr>
<tr>
<td>SICOMINES</td>
<td>2012</td>
<td>175 M USD</td>
</tr>
<tr>
<td>AMCK/MMG</td>
<td>2012 et 2014</td>
<td>61,9 M USD</td>
</tr>
<tr>
<td>TOTAL</td>
<td>2011 - 2014</td>
<td>702,9 USD</td>
</tr>
</tbody>
</table>

The NGO claims to have had access to GÉCAMINES’ database of «registers» or «partnership accounts» or «internal accounts» which it is difficult to know what they actually cover, as such a database can not be as an extracomptable document. However, little avarice in facsimile and other visual processes, the NGO does not go so far as to publish this famous document on which it bases its accusations in its report.

Thus, on the basis of those documents to which she was the only one to have had access, she suggests that the main missing amounts in these «registers» would be (page 69):
GECAMINES has therefore traced all the sums incriminated by the NGO in its accounts and has found that they are registered in its Financial Statements.

**TFM - 2011 - 30 M usd**

It is stated that GECAMINES received 30 million in 2011 from TFM and that this income seems not to be traced in the records of GECAMINES. Unfortunately, it’s a double mistake.

**FIRST MISTAKE**, a repayable loan, granted by TFM on 28/10/2011 in Gécamines, on future dividends, is treated as a partnership income the year it is granted. A loan can hardly be considered an income because it must be repaid. When TFM pays GECAMINES dividends, which has never happened before, the amounts that will be collected by GECAMINES will then be counted in its accounts as income from partnerships.

**SECOND MISTAKE**, this loan is perfectly informed in the Financial Statements of GECAMINES, validated by its auditors PwC in:


**Second sum allegedly missing:**

$ 132 million of GTL between 2012 and 2014

The NGO indicates in its notes 533 and 534 that on the basis of the seizures on the accounts of GTL (Groupement of Terril de Lubumbashi) in Jersey that GECAMINES would have perceived 132 million USD of their sale, millions which would be missing in its accounts. This seizure was made on receivables GECAMINES due to the sales of the slag of his Terril, seizures carried out by two Fonds Vautours.

To justify its figure, the NGO is based on the report of the majority shareholder of GTL, OM Group, which confirms in its report of the third quarter of 2012 that «on December 31, 2011, $ 92.8 million were deposited with of the court in the context of FG Hemisphere’s injunction (...). The injunction obtained by FG Hemisphere was lifted during the third quarter of 2012. On September 30, 2012, 22.8 million related to the injunction of Marange remain on the account of the court.»

Based on this information, the NGO indicates that it would miss 92.8 million incomes in 2012 but also 22.8 in 2013. It therefore commits first a factual error, accounting twice the same amount (22.8 M). Indeed, it can not be both a partnership income in 2012 and again in 2013. While 92.8 million were frozen in 2012 and only 22.8 were left in 2013, it could be thought that 70 million USD was an income in 2012 and 22.8 in 2013. This approximation of the NGO is 22.8 million.

More precisely, the sums that are blocked and then released come from sales invoices whose products have been blocked for several years. Amounts blocked since 2009 have accumulated to produce the amount indicated. In no case the totality of this sum can constitute the income of a year, but the accumulation several years.

More specifically, the amounts are recognized as a product or income in the GECAMINES income statement. In the 2011 financial statements, under the
heading «miscellaneous sales and intermediate products and slag», can we read that GECAMINES sold in 2012 for 86.3 million materials, in 2013 for 38.3 million. In the 2014 Financial Statements, the slag sales figure is even distinguished for slag specifically, in a note that tells us that their product was 31.6 million USD.

From the invoices issued by the sales department and the Financial Statements, it is possible to trace from these global figures (2012 and 2013) the precise share of GTL slag sales in miscellaneous products.

Total: $75.6 million in revenue from slag sales over the three years taken by the NGO and recorded in GECAMINES’ accounts, a difference of $56.4 million.

**NOT ONLY THE FIGURES ANNOUNCED ARE OVERESTIMATED BY 56.4 MILLION, BUT IN ADDITION THE REVENUES ARE WELL RECORDED IN THE ACCOUNTS OF GECAMINES.**

**SICOMINES - 2012 - 175 million corresponding to the 2nd tranche of the Pas de Porte de Sicomines**

The NGO records the Pas de Porte Sicomines for 175 million USD as income GECAMINES but indicates that this amount seems to be missing in the records of GECAMINES.

In the framework of the project between the People’s Republic of China and the Democratic Republic of Congo (Infrastructure against raw materials), one of the contractual stipulations was the payment of a $350 million GECAMINES Doorway in two tranches - in 2009 and in 2012 in return for some of his finest deposits.

These two tranches were paid in full, as indicated in particular by a correspondence from SICOMINES SARL to the external auditors of GECAMINES (Appendix 2). These sums have been paid directly to the Congolese State, as the EITI-DRC report 2012, which is accessible to the public via its website, provides information for 2012 for example.
Where did these sums go?

1 / Of these sums, under a 2014 law instituting a tax of 50% on royalties and No Door, 175 million USD were recorded by GECAMINES in the Financial Statements as payment made to the State.

2 / The balance of $ 175 million was therefore recorded as a receivable from GECAMINES on the State. This is, moreover, what can be read in the Financial Statements of GECAMINES, in 2013/2014/2015/2016 for example, p. 25/26 of the Financial Statements 2015, which accounts for this amount in respect of other receivables.

Part of this debt - 85 million - has already been transformed by the State (Annex 3) in 2017 into credit in the accounts with the DGI, the DGRAD and the DGDA, which are financial authorities of the state.

If the NGO could possibly claim not having had access to GECAMINES’ accounting documents, which it could not ignore, however, to the extent that it has largely consulted the EITI reports, it is because SICOMINES paid in 2012, $ 175 million directly to the Congolese State.

It is therefore particularly regrettable that she knowingly qualifies as «missing income (p.69)» with all the innuendoes that this evokes, a sum of which it is well known that she has never been financially transferred by GECAMINES.

2011 - 189 million corresponding to the sale of Mutanda Mining and Kansuki

The NGO indicates that 189,2 million would be missing in the accounts of GECAMINES. GECAMINES understands the difficulty of tracing this income in the accounts with regard to the technicality of the accounting rules from the Congolese General Accountant Plan, which prevailed at the time. Nevertheless, the inability of the report writers to find the figures does not give them the right to draw such damaging conclusions for GECAMINES.

The book values of Mutanda Mining and Kansuki shares in the GECAMINES accounts were USD 188.4 million and USD 0.75 million, respectively. GECAMINES has sold its shares in Mutanda and Kansuki for 172 million USD and 17 million USD.

In the 2011 Financial Statements (Earnings Information Table), this sale was recorded in account 84, «Income on Disposal of Fixed Assets and Short-Term Securities» for $ 189.1 million in consideration for equity securities. At the same time, the proceeds from this sale of 189 million USD (172 M and 17 M USD) were recorded to the credit of the same account 84 «Profit on disposal of fixed assets and short-term securities» in return for the financial account; this had a nil effect on the balance of account 84 in accordance with the Congolese General Accountant Plan of the time.
The balance included in this account in the Income Statement Table relates to the decommissioning of some fixed assets.

**IT IS THEREFORE WRONG TO CLAIM THAT THIS SUM WAS NOT RECORDED IN GECAMINES’ ACCOUNTS.**

**KCC - 2013/2014**

115 million USD

The NGO indicates that 115 million USD of Royalties and No Door would be missing in GECAMINES accounts and registers. It appears that over the same period, 120 million USD are recorded in the accounts of GECAMINES, as the summary table below describes.

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Pas de Porte</td>
<td>$30 000 000,00</td>
<td>15/08/2012</td>
</tr>
<tr>
<td>Compensation avec cession Mumi</td>
<td>$42 487 726,00</td>
<td>31/12/2013</td>
</tr>
<tr>
<td>Avances sur royalties</td>
<td>$15 000 000,00</td>
<td>31/12/2013</td>
</tr>
<tr>
<td>Avances sur royalties</td>
<td>$5 000 000,00</td>
<td>31/12/2013</td>
</tr>
<tr>
<td>Avances sur royalties</td>
<td>$2 044 547,00</td>
<td>03/02/2014</td>
</tr>
<tr>
<td>Avances sur royalties</td>
<td>$2 288 229,38</td>
<td>01/04/2014</td>
</tr>
<tr>
<td>Avances sur royalties</td>
<td>$2 365 942,11</td>
<td>17/07/2014</td>
</tr>
<tr>
<td>Avances sur royalties</td>
<td>$5 931 150,30</td>
<td>30/07/2014</td>
</tr>
<tr>
<td>Avances sur royalties</td>
<td>$15 115 576,00</td>
<td>août-14</td>
</tr>
</tbody>
</table>

**Total** $120 233 170,79

The miscellaneous income lines (PCGC) or income from the partnerships (OHADA), which are accounting items, do not distinguish according to the amounts collected under the different partnerships. These appear precisely in the GECAMINES accounting ledger from which they are extracted to form an aggregate found in the Financial Statements.

It is therefore wrong to claim that the amounts paid by KCC for the royalties and No Door to GECAMINES are missing from GECAMINES’ registers. In this case, there are even 5 million more.
According to the authors of the report, it would be missing:

- **In 2012 - 39.9 million advances on payment of rents.** It is in fact a $40 million loan, which is not an income as has already been explained, and which is reported as such in GECAMINES’ 2013 financial statements. These amounts do not have to appear as income, unlike rents that are paid since and are recorded as income.

- **In 2012 - $15 million in non-preemption fees would be missing.** These 15 million are filled in (note 22 - p.50 - heading Products and Miscellaneous Profits, Expenses and Miscellaneous Losses - Financial Statements 2012).

- **In 2014 - 6.9 million for rent payments would be missing.** For its perfect information, the reader will find attached the exact explanation of the distribution of flows. The difficulty for an outside organization to understand the flow should also push the NGO to be more modest in its assertions, especially when it carries accusations of misappropriation.

The income recorded in the GECAMINES accounts is USD 11.5 million. Of this amount, 1.6 million was used to pay the property tax. $6.8 million, which the Carter Center accuses GECAMINES of not having registered were used to repay the GECAMINES loan from MMG. 500,000 have been cashed and are included elsewhere in the EITI report. The balance of GECAMINES is 5 million which will be offset on the balance of the loan due at the time of actual payment.
IT IS THEREFORE WRONG TO SAY THAT THIS MONEY IS MISSING IN GECAMINES RECORDS, IT IS RECORDED IN INCOME.

The allegedly missing 61.9 million are therefore clearly traced in the accounts of GECAMINES.

In conclusion on this point and to summarize

<table>
<thead>
<tr>
<th>ENTITY</th>
<th>TERM</th>
<th>MISSING MONEY</th>
<th>WRONG IMPUTATION</th>
<th>MISTAKE ON THE AMOUNT</th>
<th>GECAMINES FIGURES</th>
</tr>
</thead>
<tbody>
<tr>
<td>TFM</td>
<td>2011</td>
<td>30 M USD</td>
<td>30</td>
<td>-</td>
<td>30</td>
</tr>
<tr>
<td>GTL</td>
<td>2012-2014</td>
<td>132 M USD</td>
<td>56,4</td>
<td></td>
<td>75,6</td>
</tr>
<tr>
<td>KCC</td>
<td>2013-2014</td>
<td>115 M USD</td>
<td>-</td>
<td></td>
<td>120</td>
</tr>
<tr>
<td>Mutanda Mining</td>
<td>2011</td>
<td>189 M USD</td>
<td>-</td>
<td>189</td>
<td></td>
</tr>
<tr>
<td>SICOMINES</td>
<td>2012</td>
<td>175 M USD</td>
<td>-</td>
<td>175</td>
<td></td>
</tr>
<tr>
<td>AMCK/MMG</td>
<td>2012 et 2014</td>
<td>61,9 M USD</td>
<td>40</td>
<td></td>
<td>66,5</td>
</tr>
</tbody>
</table>

Finally, it appears that of the 750 million (approximation of the NGO) that would not be traced in the accounts of GECAMINES, the total of the real amounts are well. The others, which are not revenues, but loans, are also. Finally, those that do not exist, simply do not exist.

IT WAS THEREFORE QUITE WRONG TO CLAIM THAT 750 MILLION WERE MISSING FROM GECAMINES ‘RECORDS.

3. The lies about the reality of the figures advanced «more than half a billion dollars, which would have been unreported».

Second affirmation not supported by the NGO and relayed: «It is disturbing that GECAMINES has refused to publish contracts for several mining deals that could have generated more than half a billion dollars in 2016-2017 ... especially ERG in Metalkol, CNMC in DEZIWA and TFM / CMOC23».

This statement is rather strange in that the Carter Center notes in its report that GECAMINES does not have the power to disclose contracts, which belongs to its guardianship.

The transaction on TFM in 2016: USD 100 M

It is all the more strange that in the case of TFM-CMOC, the Carter Center report responds itself to the questioning it raises (p.7) as the transaction figure was made public. Since this sum was paid in 2017, it will be recorded in the EITI DRC report and will therefore be public.

Thus we note p. 7 of the report:

«In addition, GECAMINES regularly blocks transactions negotiated by its joint venture partners with third parties, validating them only in exchange for large payments. The latest case generated $ 100 million for the state-owned company.» Carter Center is therefore perfectly aware of the amount of this transaction.

The amount of USD 100 million of TFM has been
recorded in the 2017 income statement in the «Excluding Ordinary Activity» section. (Revenue excluding ordinary activities, Note 29, Financial Statements 2017);

**The sale of shares of GECAMINES in Metalkol to ERG, in 2016: 170 M USD**

In the EITI Report on State Portfolio Companies, available on the EITI-DRC 2016 website, it is clearly stated that GECAMINES sold its shares in Metalkol for 170,000,000 USD\(^1\) (one hundred and sixty - ten million dollars), a figure that the NGO could not ignore.

GECAMINES wishes to point out that the transaction was finalized partly in 2016 for 110,000,000 USD, according to its statements contained in the report EITI-RDC 2016\(^2\), and partly in 2017 for the balance, which will appear in the report 2017 EITI-DRC.

Enought Project can not, therefore, October 30, 2018, cited these figures of the Carter Center which dates from the end of 2016 without bothering to look if public issues have allowed to answer the questions that were asked. This process aims to take statements of several years without checking them and simply dishonest.

**CNMC - DEZIWA: USD 55 M USD**

Although not required to publish the contracts it signs, GECAMINES wishes to specify that it has received, pursuant to Article 14.1.1 of the Consolidated Joint-Venture Agreement of 26 April 2017 on the commercial exploitation of the DEZIWA polygon, a No Door worth $ 55 million. These figures will obviously appear in the 2017 report of the EITI-DRC.

The amount of USD 55 million from Desizwa has been recorded in the income statement 2017 under «Ancillary revenue». (Account 707 Revenues from Royalties).

Once again, it is particularly regrettable, even characteristic, that the Carter Center, like the other NGOs, only focuses on the money paid to GECAMINES and does not note the particularly innovative nature of this partnership. This will allow GECAMINES to become the sole owner of a plant of 80,000 tonnes of copper produced annually after a period of between 9 and 11 years and thus have a production unit independent of any partnership. Thus GECAMINES will be the sole master of its production and its contribution to the tax revenues of the State. But perhaps it is precisely this aspect of things that upsets these NGOs and their sponsors.

GECAMINES has, in fact, actually received, under three contracts, USD 325 000 000, duly recorded in its accounts, which is far from the 'more than half a billion' that would not have been declared.
4. Lies about Mutanda and Kansuki’s undervalued sales that would have cost the DRC $630 million

According to the Africa Progress Panel, taken up by the Carter Center in particular:

- the sale of Mutanda Mining would have caused the DRC to lose $514 million in March 2011, as GECAMINES sold its shares for $120 million, when the estimate given by the Africa Progress Panel of this 20% would be 634 millions of dollars.

- The sale of Kansuki, for its part, would have cost the DRC $116 million because its sale price was $17 million, while the estimate given by the APP is $133 million.

How did the APP evaluate the values of these two companies?

He relied on estimates. One could expect more rigor when one accuses a country of selling off its mining assets. For Mutanda, we learn that the average of five valuations at the date of the sale gives a value of $634 million to the 20% sold, an overall value of the company of $3.17 billion. The problem is that no reference of these five evaluations is given. For once, no footnote. Nevertheless, we learn in a report of Global Witness²⁶, that this estimate is drawn: «According to the calculations based on Deutsche Bank estimates quoted in the June 2011 report of an investment analyst» - it is unclear who - report can be accessed at the following address: http://www.scribd.com/doc/57254342/34/Mutanda-%E2%80%93-a-tier-1-greenfield-development-asset. Unfortunately this report is no longer available.

For Kansuki, we learn that the estimate of 133 million dollars is the result of the estimate of Deutsche Bank and Liberum Capital, of which no reference is provided.

In 2009, responding to the request of the multilateral institutions to split GECAMINES into a Metallurgical Mining Company and a Holding Company, the DRC Government entrusted to a world-renowned investment bank the valuation of the mining assets held by GECAMINES. This valuation report was delivered on April 2, 2010 to the Ministry of Portfolio and forwarded to the Board of Directors of GECAMINES, which we succeeded.

Although the split project was fortunately not followed up, it nonetheless allows us to have a serious evaluation of all our assets at that time, carried out for six months, by professionals (9), on the basis of the consultation of official documents and meetings with the management of the entities concerned.

And when it comes to their evaluations, what do we learn? We learn that....

- The value of GECAMINES shares in MUMI, for this recognized investment bank, is 107 million, calculated on the dividends to be collected.

- For potential royalties, the value is $80.6 million

That is a total of $187.6 million, a figure that is also found in GECAMINES accounting quite far from the $634 million announced but not justified.
In summary, it would seem that the estimate is overvalued because it seems to add the value of the shares of the state to the GECAMINES stream. This is nonsense, because in no case did the State sell its rights through the sale of GECAMINES shares in Mutanda, corporation tax and royalties that it retained. On this point, it can be noted that, given the absence of a tax on the profits received by the State of the DRC in all the partnerships, the evaluation of their value was probably greatly overestimated. On the other hand, the question of the payment of 120 million instead of 187 can legitimately be raised.

The Board of Directors, which took note of the planned sale of Mutanda Mining for $108 million and $17 million for Kansuki, asked after reviewing the details of the valuation that the price be re-evaluated at 137 million, which was done with the buyer following a decision of the Board of Directors on March 25, 2011, then on December 18, 2011 to 189 million.

As for Kansuki, which was not a partnership, the estimate of 17 million for 25% in 2011 in a mine without activity seems more realistic than the proposed assessment which is difficult to dispute because it is not accessible.

The sale of MUTANDA shares was therefore made at the price of its official valuation, far from the only 18.9% affirmed by the Carter Center.

How did we arrive at this figure of 634 million? Probably by adding the revenue from the state’s mining royalty, which was estimated at $408 million discounted and which is 90% corporate tax.
5. The lies about the small contribution of GECAMINES to the state budget

The Carter Center is trying to prove that the funds that disappeared would not have been used to finance the state budget.

State budget

According to the Carter Center:

«It appears that GECAMINES transfers only a tiny fraction of its revenue to the DRC treasury» (p.57)

«According to the EITI reports, of the $ 1.5 billion in revenue (actual figure 1,294 billion nd) that GECAMINES collected from its partnerships between 2009 and 2014, less than five percent was transferred to the State Treasury as taxes and dividends. What happened to the rest?».

According to Global Witness:

GECAMINES does not contribute «significantly to the public purse» (p.6)

«According to the EITI, GECAMINES paid nearly $ 15 million in taxes to the state, on reported mining-related revenues of $ 265 million in 2014. In 2015, it paid only $ 21.8 million on reported revenues of $ 249.5 million.» (P.17)

«In reality, GECAMINES does not pay much more than 20 to 25 million dollars of taxes per year, according to the statistics of the EITI, although in 2014 the accounts of GECAMINES give a higher figure of 70 million of dollars.» (P.19)

These NGOs claim that GECAMINES between 2009 and 2014 would have paid $ 75 million to the state. It is interesting to note that the 2009 EITI report on which the NGO is based does not provide information on corporate contributions to the state budget, but this does not preclude the authors of the report from accounting for 2009 in the GECAMINES contributions. For information, the first EITI Report to this effect dates from 2010.

The EITI reports (without the year 2009) indicate that GECAMINES contributed to USD 109 million compared to 75 for the NGO on the same sources, ie 34 million errors.

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>13,1</td>
<td>38,3</td>
<td>23,7</td>
<td>18,5</td>
<td>15,5</td>
<td>109,1</td>
</tr>
</tbody>
</table>
Lastly, GECAMINES wishes to point out that over the period 2009-2016, advances on taxation represent $ 301 million. It therefore seems unreasonable to claim that GECAMINES «transfers only a tiny fraction of its revenue to the DRC treasury.» On the contrary, it contributes a lot more than it should, given its income.

These NGOs also seem to regret that GECAMINES does not pay dividends to the State. They forget two basic notions of accounting. The first is that any flow, is not a recipe in the accounting sense. The second is that one pays neither taxes nor dividends on receipts or products, but on profits, that is to say on the difference between the products and the charges. But at no time, in his demonstration, do they speak of the charges that GECAMINES must cover to ensure its functioning.

Attached is a chart that follows accounting principles. This table does not confuse the revenues with the profits, and shows that even in period of accounting deficit, GECAMINES contributed to the budget of the State.

<table>
<thead>
<tr>
<th></th>
<th>2009</th>
<th>2010</th>
<th>2011</th>
<th>2012</th>
<th>2013</th>
<th>2014</th>
</tr>
</thead>
<tbody>
<tr>
<td>IBP</td>
<td>102,169</td>
<td>472,483</td>
<td>1,472,219</td>
<td>669,204</td>
<td>663,205</td>
<td>5,159,888</td>
</tr>
<tr>
<td>Impôts</td>
<td>1,353,758</td>
<td>539,782</td>
<td>95,403,043</td>
<td>542,527</td>
<td>661,205</td>
<td>10,519,623</td>
</tr>
<tr>
<td>Taxes</td>
<td>22,312,605</td>
<td>23,677,535</td>
<td>24,341,676</td>
<td>27,194,337</td>
<td>30,671,902</td>
<td>20,943,478</td>
</tr>
<tr>
<td>Taxes domaniales</td>
<td>2,054,516</td>
<td>6,053,290</td>
<td>3,650,007</td>
<td>6,952,548</td>
<td>7,011,694</td>
<td>8,501,459</td>
</tr>
<tr>
<td>Droits d’entrée</td>
<td>504,116</td>
<td>2,917,813</td>
<td>1,446,601</td>
<td>634,408</td>
<td>19,163,008</td>
<td>4,029,665</td>
</tr>
<tr>
<td>Contribution au budget</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>370,827</td>
<td>716,158</td>
<td></td>
</tr>
<tr>
<td>Amende et pénalités</td>
<td>3,117,550</td>
<td>8,881,555</td>
<td>6,649,534</td>
<td>217,439</td>
<td>2,603,980</td>
<td>19,945,635</td>
</tr>
<tr>
<td>Total</td>
<td>29,444,714</td>
<td>42,542,458</td>
<td>132,963,081</td>
<td>36,210,463</td>
<td>61,145,821</td>
<td>69,815,906</td>
</tr>
</tbody>
</table>

Lastly, GECAMINES has contributed to the DRC budget 372 M on the 2009-2014
6. The lies about GECAMINES ‘contribution to its debt, its employees, its investments

On the subject of debt, the NGO accuses GECAMINES of not having used its money to reduce its debt. She even accuses him of having increased but still conditional: «Since 2010, $ 715 million in new debt has been added to GECAMINES’ books (p.66)»

It is thus indicated in its report:

- GECAMINES’ debt would have been 1.524 billion USD in 2010,
- it would have been reduced by 556 M by the Congolese State in respect of the cross-debts of the public companies (said uninsurable liabilities)
- AFD would have canceled its debt of 103 M, It concludes that GECAMINES would have benefited in total of 659 million USD debt canceled in 2012.

Moreover, noting that GECAMINES’ overall debt would have been more than 1.5 billion in 2014, the report concludes that the GCM would have contracted for 715 million new loans, ie brought back on average over the 2010 period. -2014, at 55 million per year.

Unfortunately, once again the facts are stubborn, and the NGO makes simplistic arrangements with reality:

- GECAMINES’ debt was 1,687 million in 2010 and 1,509 in 2014.
- Contrary to what is asserted, the uninsurable liabilities between companies in the portfolio have not yet been cleared to date and this remains a reform to be undertaken through cross-shareholdings. That makes only one mistake of 556 million in his reasoning.

- GECAMINES, on the other hand, recorded in its accounts the drop in a receivable from SNEL, which was revalued downwards by $ 200 million for over billing, but it was not in any case a clearance of receivables for cross-debts of the State.
- Contrary to what is stated, the AFD debt, whose clearance at a time was considered, is not realized. This debt is still in his accounts
- Finally, with regard to cross-claims between the State - understood in the strict sense of the term, financial rules in particular - and GECAMINES, these amounted to 456 million USD for GECAMINES and 346 million for the State. USD. It was actually achieved a clearance in 2012, which resulted for GECAMINES to the inclusion in its accounts of an additional charge of 119 million USD.

It is therefore simply wrong to claim that GECAMINES benefited from a debt write-off of 659 million thanks to the State for cross-debts between portfolio companies, and to draw the conclusion that GECAMINES would have recourse massively to borrowing then. The debt between 2010 and 2014 actually decreased by almost 10% - or 164M.

REGARDING THE EMPLOYEES, the NGO on the basis of the testimony of an anonymous employee, indicates that GECAMINES would not have used partnership money to pay its employees on a regular basis whereas in 2009, everyone would have been paid on time.

Upon arrival The Board inherited a debt of arrears, so-called «frozen» with the unions, which amounted to 51,299,957.26 USD, representing the equivalent over the period June 98 - November 2006, 41 months of salary arrears, which does not correspond to what is stated in the report.
This sum was cleared at 100% for the executing labor force and 93% for the executives. This clearance was only made possible through the use of partnership funds, including disposals of assets. It is true that there were tensions on wages in 2014 and 2015, wages that were caught up in the year that followed.

It is worth remembering that these periods corresponded to the end of the world super-cycle of raw materials, which led to the partial or total halt of some farms in Katanga, as at KCC for 18 months with 1,200 unemployed people, Kimin, Mikas, MMG with downsizing. GECAMINES, aware of its role, did not put anyone out of work, and despite some difficulties, continued to pay its employees as regularly as possible, again showing its status and specific responsibilities in the mining environment.

Moreover, and even if this progress does not fall within the period considered by the report, it is noteworthy that GECAMINES, to date, is the only company in the state to have put in place a retirement plan (2015-2017), which has now allowed 2,294 agents to leave the company definitively by paying them their final account, in total for 1,963 of them and partly for 331 of higher hierarchical level. This effort represented a mobilization of $45 million.

Moreover, a good indicator of this subject is the degree of adherence to the company’s voluntary departure plans for its employees. We are no longer able to find candidates for departure, contrary to the past, despite the proposal to pay them a substantial sum. And for what reason? Because now, wages are paid on a regular basis and the confidence of employees in the ability of the company to pay their salary on a regular basis is stronger than the fear of not being paid.

REGARDING THE INVESTMENTS, the Carter Center and GLOBAL WITNESS explain that GECAMINES, because it did not have convincing results in terms of production, did not invest in the company.

Between the acquisition of mining concessions, transport equipment, machinery and equipment, the purchase of shares in JV, equity and prospecting, GECAMINES over the period 2010-2014, invested 860 million dollars. If the operational success is not yet at the rendezvous, it is because the arrival of the new Council in November 2010, he had inherited a catastrophic situation that led him to make the findings following:

- Total obsolescence of all the facilities found on-site in 2010, the last investment having been made 25 years earlier and which otherwise was not found in the company that was ceded to a partnership (KCC).

- Total aging of staff with an average age of over 58 years.

- A surplus of more than 12,000 employees, unrelated to production and whose payroll was unrelated to the Company’s contribution capacity.

- An objective financial bankruptcy for GECAMINES which was then in default, which necessitated the sale of certain non-strategic assets.

- The impossibility for GECAMINES to access bank financing, as noted in the report.

This situation, in fact, led the World Bank in April 2010, in an internal note, to the conclusion that it was necessary to dissolve GECAMINES as a mining production company in order to retain only the management functions of GECAMINES assets.

The President of the Republic, then opposed this proposal and appointed a new Board of Directors, with mandate to remake GECAMINES a mining actor in its own right.

«More specifically, over the 2013-2017 period, GECAMINES, has invested in its production tool, at the height of its means. So: $334.9 million
was invested in 2013, $66.7 million in fiscal 2014, $67.7 million in fiscal 2015, $39.9 million in fiscal 2016, and $27.3 million in fiscal 2013. Investments in property, plant and equipment for the 2017 financial year, including 22.7 million in outstanding work. The 2018 budget provides for $101 million in investments.»

These funds mainly made it possible to carry out three types of investments:

- **The acquisition of strategic assets - GECAMINES** - thus notably recovered the Deziwa and Écaille C mine for the sum of $196 million USD, which contains 1.5 million tonnes of JORC certified copper and a potential of 2.5 million tonnes. additional tons.

- **Making Directly Productive Investments** - These investments included (i) the Kamfundwa Mines by investing in HMS (Heavy Media Separation), (ii) building a Heap Leach in Shitu, (iii) renovating the Shitu electrolysis room and installing an SX, (iv) building a large Heap-Leach at Panda by (v) investing in an industrial grinding unit for Kamatanda, and again (vi) investing in a Heap-Leach in Kamfundwa.

- **The certification of reserves to prepare for the future - GECAMINES** would like to emphasize that it has also invested in the certification of its reserves, notably in Kamfundwa, Kamatanda and Kingamyambo, which had not happened in 25 years, and had commissioned site Kingamyambo releases a bankable feasibility study by a South African firm PIVOT that allows him today to seek funding to build a new factory out of any partnership.

It is therefore wrong to claim that GECAMINES would not use the company’s funds for its mining operations. On the contrary, directly productive investment plans continue to grow, so rebuilding is their own production tool and again becoming a big mining company, without waiting for our external partnerships for incomes that do not come. Nevertheless, this process is long and difficult and that is why with the industrial constraints related to the obsolescence of our factories, GECAMINES initiated a process of transformation of its organizational structure to adapt it to the modern functioning of the mining industry.

This transformation, led by the firm EY, began with an organizational audit, which was conducted between January and June 2018, which resulted in a new organization chart, deeply reworked by the standards of GECAMINES, including the creation of Business Unit autonomous in their operation.
Nine projects have been implemented since July 2018 and will end in the second quarter of 2019. **GECAMINES** hopes to have the appropriate structure to achieve its objectives.
**Conclusion of the first part**

**WILL THESE EXPLANATIONS SUFFICE TO CAST DOUBT ON OUR CRITICS?**

We are convinced of the opposite, because so many errors, approximations, insinuations and biases can not be fortuitous or fall under the sole incompetence, but more surely intentional in the service of interests less avouables than the only defense the Congolese people and its development.

<table>
<thead>
<tr>
<th>CARTER CENTER ASSERTION</th>
<th>INSINUATION</th>
<th>REALITY</th>
</tr>
</thead>
<tbody>
<tr>
<td>750 millions would be missing</td>
<td>The money has been diverted</td>
<td>100% of the missing money is registered in its financial statements</td>
</tr>
<tr>
<td>More than half a billion USD wouldn’t be registered in 2016-2017</td>
<td>The money has been diverted</td>
<td>Contracts are worth 325 millions and are registered in its financial statement</td>
</tr>
<tr>
<td>GECAMINES would have sold 137 millions what is worth 767 millions</td>
<td>GECAMINES has underesti- mated the selling of its assets at the expense of the country</td>
<td>GECAMINES sold 189 millions what is worth 189 millions</td>
</tr>
<tr>
<td>GECAMINES contribution to the DRC budget would have been between 2009-2014 of 4,5 M USD</td>
<td>GECAMINES is a bad taxpayer at the expense of the country</td>
<td>GCM on the considered term has accounted for 372 millions usd. In the same time, on the term 2009-2016, advances on taxation are worth 301 millions.</td>
</tr>
<tr>
<td>GECAMINES’ debt would have increased for 715 millions between 2009 and 2014</td>
<td>GECAMINES is increasing its debts in a irresponsible manner, since GCM is receiving im- portant amount of money</td>
<td>GECAMINES’s debt has de- creased by 164 millions USD between 2010-2014</td>
</tr>
<tr>
<td>GECAMINES is not paying its people</td>
<td>GECAMINES is favoriting its « friends » instead its people</td>
<td>GECAMINES HAS REDUCED WAGE ARREARS FROM 41 MONTHS TO TWO MONTHS VALUE IN2018</td>
</tr>
<tr>
<td>GECAMINES did not invest in its own development</td>
<td>GECAMINES is favoriting short term instead of investing in its long term development</td>
<td>GECAMINES has invested 860 millions on the 2010-2014 term.</td>
</tr>
</tbody>
</table>
Second part: Why does not mine money benefit the DRC more widely?

What lies behind this almost unhealthy obsession with trying to soil a developing country when we are an NGO working for the promotion of democracy and the fight against corruption. We must probably look for who benefits from this activism.

Contrary to what the detractors of GECAMINES and the mining system of the DRC in general claim, if the revenues of the Congolese mining system do not benefit enough from the State budget, it is not so much because the revenues of the partnerships GECAMINES would be confiscated to fuel the corruption of power but much more prosaically, because the revenues from mining, by our external partners, are not shared equitably with the Democratic Republic of Congo.

We are convinced that this manipulative enterprise can only have the objective of maintaining the system as it is in an attempt to prevent any recapture by the DRC of its natural resources. As noted by one of the NGOs\(^6\) in the 8th line of their report, these riches represent: «enough copper to connect five million households to electricity each year, and provide no less than half of the total global cobalt, an essential component of the manufacture of rechargeable batteries in smart phones and electric cars». Much is said: without the DRC, big problem on the energy transition.

Two structural causes explain this imbalance in the distribution of wealth.

1. The first is that the mining code of 2002 was too favorable for investors.

2. The second is that the system put in place by multinational companies in the sector, results in depriving the state and their partner GECAMINES profits or dividends.


The Mining Code of 2002, which was a post-conflict code drafted with the assistance of the World Bank\(^7\), establishes «thus a standardized, competitive and liberal regimes\(^8\) to promote the attractiveness of the country vis-à-vis investors and revive as soon as possible the production of the country emerging from a long and deadly conflict.

Unfortunately, if it has achieved its production recovery targets, it has not allowed the country to benefit from the revenues derived from the exploitation of its subsoil. This situation has been widely described by the World Bank\(^9\) itself, which in its Preparatory Report for the revision of the mining code of 2002, made the unequivocal statement of the imbalance between the exploited wealth and the repercussions for the country.

So does the Washington institution note:
“It is anomalous that a country whose oil and mineral exports amounted to $48.5 billion during the super-cycle of industrial mining production (2010-2014) pays $9.9 billion to remunerate investors, receives $6.9 billion in revenue, and is in a near-crisis situation with a decline in reserves and insufficient revenues.” This shows that the choice to use multinationals operating in the formal sector has not produced the benefits expected by the state.

“Thus, while the natural resource rent potential in the DRC is one of the highest in the world and in sub-Saharan Africa, the country has one of the lowest levels of revenue mobilization. In 2012, the DRC ranked 16th out of 186 countries in the world and 6th out of 47 countries in sub-Saharan Africa in terms of the potential of natural resource rents relative to GDP. Yet it ranked only 104th out of the 117 countries in the world and 17th among 22 African countries in terms of the share of domestic revenue in GDP. These two findings clearly show how far the DRC is from the dominant trend linking domestic revenues to the potential of natural resource rent.”

“Foreign investors have benefited more from the boom in the natural resources sector since 2007 than the Government and local producers. The value of exports more than doubled between 2007 and 2014. Outflows of factor income, excluding interest payments, increased from $172 million in 2007 to $3.1 billion in 2014. These factor incomes essentially correspond to the remuneration of Foreign Direct Investments in the natural resources sector and the ratio of these revenues to oil and mineral exports increased from 3.4% to 26%.”

“The generous provisions of the 2002 Mining Code and the weakness of the tax administration do not allow the DRC to take full advantage of its abundant natural resources. In 2014, the tax contribution of mining companies at all levels of the public sector (both national and local) was estimated at 3.8% of GDP. At present, tax revenues from mineral resources would represent at most 25% of all public sector revenue, compared to 48% in Botswana. According to current multi-country studies, the Government should maximize the NPV of its share of profits at 60% or more. To achieve this, the Congolese Government should apply a comprehensive tax system, including corporate income tax, royalties and a mining tax.”

As can be seen, for the World Bank, the main reasons for the low level of income for the State, widely understood, are the inadequacy of the Mining Code which is very favorable to investors, the choice to resort to multinational companies and the weakness of the Congolese tax administration to fulfill these missions.

But beyond all reason and overshadowing this profound imbalance, the only subject on which NGOs focus to explain the chronic budget deficit of the Congolese state invariably remains that of alleged diversions of which GECAMINES would be the source.

By pushing the reasoning to the absurd, one could even say that, even if their accusations would be true about the corruption of the power of which it saw that it was not the case, never the NGOs do not compare what would have cost possible corruption in the DRC and the imbalance of the system in favor of foreign investors.

This would have allowed them to conclude that the scales are not at all the same. This is also what was noted, especially by a Belgian professor, specialist in Central Africa and its mining issues, Professor Steefan Marysse, yet unlikely to compromise with the DRC and GECAMINES he criticizes widely. He himself specifies that the stakes are incommensurable: “What we see now, according
to International Monetary Fund (IMF) estimates, is that from 2013, the repatriation of profits is greater than the new investments coming into the country and this trend will increase, until 2019. And the country loses. If we take the present value of these cash flows, there is a net loss of $17 billion. When compared even with the highest estimates of money lost in the sale of assets, this legal bleeding of repatriated profits for the country is much greater.

The reform of the mining code of 2002

It is this situation of imbalance that led to the reform of the Mining Code of 2002 and the promulgation of the Law n° 18/001 of March 09, 2018 amending and supplementing Law No. 007/2002 of July 11, 2002 on the Mining Code. revising the mining regulations by Decree No. 18/024 of 8 June 2018 amending and supplementing Decree No. 038/2003 of 26 March 2003 on mining regulations.

Beyond the irrational agitation surrounding the adoption of this new legislation, two points deserve to be noted.

Contrary to the assertion of a group of seven multinational companies present in the DRC, the new legislation, especially tax, remains in the standards of the global mining industry and poses no risk to their profitability.
Thus, on the alarmist nature of the operators’ position with regard to the supposed economic risks linked to the increase of the royalties established by the new Mining Code, can we read: «Even with the announcement in the market, the DRC is likely to remain among the most competitive in the world for key sources, including copper and gold,» Moodys said. This is confirmed by Bloomberg News Agency, which also notes: «Mining royalties in Congo will remain among the lowest, even after an increase» explains a Bloomberg Review reporter in an article published on March 12, 2018. «Even at the new rate of 3.5% proposed by the National Assembly of the DRC costs will still be lower than those in Australia and the United States, according to Price Waterhouse Coopers’ copper royalty database».

Thus, the alarmist nature of the supposed insecurity of their investments in the DRC, the reform will not prevent to make the country «the fastest growing major mining in the world of this political and political level» according to BMI, a subsidiary from the international rating agency Fitch.

Thus justice and equity, if these words still have meaning, for operators, who still dare to avail themselves of derogations, obtained by other investors than they - as for CMOC in TFM - during the At the time of the war, concessions were negotiated more than 20 years ago, and they were then able to extract benefits whose mere decency would prevent their new beneficiary from fighting for them.

Once again, the DRC would have liked to have received the support of these NGOs to hail its initiative aimed at allowing it to rebalance its relations with the companies of the sector and not to be left alone in the face of the deluge of critics that did not fail to fall on the country. Unfortunately, this approval is only given lip service by Enought Project and after a tedious demonstration (reproduced in note) on the apparently positive character of the reform but potentially destabilizing for the industry. Their conclusion is particularly illustrative of the bias against any reform, because even if it would go in the right direction, this NGO can not help but conclude that the code «would create instances where preferential treatment, bribery, and other forms of corruption could increase».

Definitely, it is therefore impossible for these NGOs to see something positive coming from the DRC, without immediately wanting to blacken the picture. The fact that one of the supporters of this NGO that makes this judgment on the reform, shareholder of one of the companies that is one of the most virulent opponents of the new code, must surely not be innocent.

2. The system put in place by the multinational companies of the sector, aims to deprive the State and their partner GECAMINES profits or dividends.

While denouncing the system that would be embodied by GECAMINES, NGOs do not seek more to know the real contribution of the private sector to tax revenues of the DRC, and especially in terms of taxes on profits.

It is worth remembering that this tax should normally be the main source of income for the State on the exploitation of its natural heritage, just as the dividends paid to GECAMINES, because it is the counterpart for having transmitted the best mining titles from DRC (the Kamoto mine, the Tenke Fungurume mine, the Sicomines mine to name only the most famous) to those joint ventures in which the foreign majority partner is the operator.

If GECAMINES, at the request of the State, sold in partnership the equivalent of 32 million tonnes of copper and 3.5 million tonnes of cobalt to its main partners, it was on the grounds that they were supposed to be:
...financially better endowed and,

...technically more experienced, to (re) highlight the heritage of GECAMINES that had been altered by the years of conflict and exploit it in a modern way,

...and thus allow the State to benefit from significant revenues from these partnerships.

Unfortunately, while these companies have been almost in line with their production goals, they have been much less successful with their economic and financial goals. Thus, since the start of production of these partnerships, which date back to the most important of the years 2000, none had ever made a dollar of profit until 2016 and therefore have never paid a tax dollar on state profit or dividends to GECAMINES, contrary to any projections of feasibility studies.

Of course, the state received a mining royalty of 2.5%, just as GECAMINES received royalties. Thus for the year 2016, on a combined turnover of $2.59 billion of the totality of the companies in which GECAMINES is a partner, its revenues were of 88 million dollars. Are these people serious when they say they contribute enough to their co-shareholder?

To try to understand this situation, GECAMINES has therefore commissioned technical studies by one of the world’s largest audit and consulting firms, which revealed that, in its five main active partnerships, the expected financial flows for State/GCM had been compared to feasibility studies, lower than:

- **28% compared** to the projections of feasibility studies for mining royalties, ie 160 million fewer out of the 554 expected

- **94% compared** to the projections of feasibility studies on income tax and property taxes, **3.3 billion** less than expected.

- **74% compared** to the projections of the feasibility studies expected for No Door / Dividends, **1.5 billion** less than expected.

In total, the State and GECAMINES suffered a $4.9 billion revenue shortfall between 2005 and 2016, compared to the projection that decided the choice of their partners.
The reason for these discrepancies is mainly due to very large slippages of the main costs of the factors of production which have been much higher than the feasibility studies. Of these five partnerships:

- **Capital expenditures (CAPEX)** represented a 125% increase over the feasibility study projections, more than twice the announced price to build the production units.

- **Operating expenses (OPEX)** are 80% higher on average than feasibility studies, almost twice their price.

- **Financial expenses increased by 180% on average** compared to the projections of the feasibility studies, nearly three times their initial estimates, when we know that the shareholders themselves lent the money to the JVs.

- **Sold production.** In view of these excesses, which should have led any leader to the door, we would have at least expected a higher production. This was 10% lower than forecast.
We could have thought that faced with such a situation whose incompetence can not be the only justification, these NGOs, defenders of good governance, would have demanded accounts from these companies.

It was not so, and beyond the abyssal silence that followed these announcements made at INDABA in 2017, a real high mass of the mining industry, their proposals continue to target only the Congolese system itself, by simply proposing the full opening of the mining sector and its supervision under the multiple authority of the Government, the Parliament, the Mining Cadastre, the multi-stakeholder initiatives of the civil society, the donors and the NGOs, before which I quote «State Enterprises and the Ministry of the Portfolio should be accountable to them».

As for GECAMINES, I still quote «it should review its business plan ... an option would be to give up its status of producer for the benefit of that of Portfolio Manager».

Fortunately, the government thinks and GECAMINES thinks that, given the results of our partners, it would be much more up to them to be accountable and that is why, we have started a renegotiation process of all our partnerships.

The figures presented mask a sad reality. This system has been decrypted by another international consulting firm which has carried out a series of audits on our partnerships. It has succeeded in demonstrating the systematic nature of the mechanisms put in place by our partners to inflate artificially the charges to reduce the results, and deprive the State and GECAMINES of income, by transferring the flows to their direct profit, in particular through their policy financing, or to affiliates, via their operating expenses.

GECAMINES has therefore opened discussions, notably aimed at restructuring the debt of joint ventures, at a better distribution of shareholding, at a better sharing of project governance to put more weight on the decisions of the Group, joint venture or the respect of the provisions concerning the use of subcontracting.

A first negotiation with Glencore, the majority shareholder of joint JV Kamoto Copper Company, resulted in the signing on June 12, 2018 of a transactional agreement, including:

- The equity of KCC will be reconstituted in accordance with the legislation in force;
- KCC’s debt to the GLENCORE Group will be reduced from $ 9 billion to $ 3.45 billion as at January 1, 2018;
- The interest rates applicable to intra-group loans are regulated and can not exceed 6% per annum;
- On the basis of KCC’s current business plan, starting in 2019, GECAMINES will begin to receive dividends for the first time, the cumulative value of which is estimated at more than 2 billion USD over the next ten years;
- The profitable results will allow the payment of taxes on companies contributing to a significant bailout of the Congolese state coffers;
- A better valuation in the future of the contribution of copper and cobalt deposits of GECAMINES to the partnership by a consequent increase of the modalities of the computation of the step of door.
- A significant increase in the valuation of GECAMINES’ stake in KCC, which was nil until then due to the high level of debt of the company;
- The waiver by KCC of the JORC certified reserves amounting to 3,992,185 tCu and 205,629 tCo (the «Reserves»), thus freeing GECAMINES from its obligation to provide the Reserves or, failing this, the payment of a countervalue maximum of $ 285 million;
The payment by the KATANGA GROUP of a transactional indemnity (150 million USD) in favor of GECAMINES.

It is unfortunate that none of the NGOs has thought of commending this significant step that will allow both the State and GECAMINES to finally benefit from income from the 2019 financial year, BECAUSE ALL THAT IS GOOD OR POSITIVE FOR THE DRC DOES NOT INTEREST THEM.

FURTHER NEGOTIATIONS ARE UNDERWAY WITH OTHER GECAMINES PARTNERS WHO ARE AIMING FOR THE SAME GOAL.
Third part: Bias of NGOs

Through a few selected examples, we would like to demonstrate that while their unrestrained search to accuse GECAMINES of all evils, these NGOs do not shrink from any understanding with reality and no method of denigration.

1. The approximations on the management of the sector of the Center Group (Likasi)

Global Witness in its report of 2017, thought to find in a subcontractor GECAMINES material to slander. What is interesting is to note that on a true basis, the revival of the Kamfundwa sector, Global Witness succeeds in embroidering a story created from scratch, in the service of its demonstration which suggests, without saying it, that the managers GECAMINES could only be people, at best inconsistent, at worst malicious. Thus, the report notes:

➔ «The ‘main hopes’ ... are based on the Kamfundwa mine» (p.22)

➔ «Scorpion Minerals Processing has been selected as a subcontractor to revive work at the mine, rather than a company with extensive international experience in the extractive industries.» (P.22)

➔ «According to these notes, the verification and control services of GECAMINES themselves will not be able to prevent the market with Scorpion, and GECAMINES will assume its fiscal responsibilities and project costs.» (P.22)

➔ «The project consists of five separate contracts, none of which have been made public and whose terms are unknown, even within GECAMINES.» (P.22)

If we go back step by step:

➔ «The ‘main hopes’ ... are based on the Kamfundwa mine» (p.22)

This is true, because noting the difficulties to achieve the production objectives, and despite the investments decided by the Board of Directors, it was decided in December 2015 to have an audit conducted by two recognized consulting firms - Coffey Mining (Republic of South Africa) and Qubeka (Namibia) - active GECAMINES sectors: the West Group around Kolwezi and the Center Group around Likasi.

On the basis of the results of these audits, it was decided to close the industrial units of the West Group in Kolwezi, which were not profitable, obsolete and dangerous, and to concentrate our efforts on the Central Group, notably the Kamfundwa mine and to entrust the operational management (and not the property as improperly reported) to an outside operator, Scorpion Mineral Processing (SMP), with the use of GECAMINES’ staff.

➔ «Scorpion Minerals Processing has been selected as a subcontractor to revive work at the mine, rather than a company with extensive international experience in the extractive industries.» (P.22)
SMP is a well-known mining company in the sub-region and Katanga. In particular, she conducted the AEMR studies in Angola on the development of an iron mine, a rail network, a port and a processing plant. SMP also developed Kipoï’s HMS and Heap-Leach and provided technical support until 2012.

This company is therefore known in the Democratic Republic of Congo, and particularly in the operation of HMS, which is the cornerstone of the operation of mineral processing Kamfundwa.

SMP, which is no longer a subcontractor of GECAMINES since February 2018, had 56 people on site, including 12 expatriates, all of whom worked with more than 1,500 GECAMINES employees in this Kamfundwa sector, which includes, in addition to the mine, the concentrator and the Shituru factory in Likasi.

Thus, given the specific need identified, the use of a «major international mining company» to operate a mine of less than 400,000 tonnes of copper, ie small in relation to the sector, would not have been possible. Adequate. We do not go to Airbus to buy a twin engine. But it must be more credible to say «big international society», even if it does not have any relevance.

Concerning a so-called internal opposition, in the name of which GECAMINES’ audit and verification services, of which we are not sure who they are, would like to oppose a policy decided by the company and the recourse to a subcontractor chosen by the competent bodies?

Regarding fiscal responsibilities that seem to worry Global Witness, GECAMINES has issued an opinion by its External Auditor, whose fac simile is attached, which analyzed the contracts concerned and issued a notice on January 7, 2017, which has been taken into account by the services of GECAMINES.

Lastly, as regards the public nature of the contracts, GECAMINES is not yet obliged to publish the subcontracting contracts it contracts with suppliers and does not see how this could have an impact on its good governance. To disclose, how and with whom, it seeks to achieve its production goals. To think that no one within GECAMINES would be aware of these contracts, there is only one step that the NGO crosses gleefully.
To summarize, by impressionist touches, Global Witness sought to make believe that:

- the subcontractor was not qualified but GECAMINES would still have hired him, which is not professional,

- that people without legitimacy would have sought to oppose it but in vain, which is courageous,

- that GECAMINES would have taken tax risks surely to favor the subcontractor, which is irresponsible

- and, moreover, that the contracts would hide something, which is probably illegal.

Without saying it, and without any proof, only by innuendues, GLOBAL WITNESS who does not know anything there in subcontracting mining, discredits a action of the company. We would have preferred Global Witness to look for why investors like those in the DRC, see their factories cost more than twice the price displayed in feasibility studies, for amounts exceeding billions of dollars.
2. The lies about interest paid twice by **GECAMINES**

«The whistleblower claimed that he had been instructed to deduct the interest payment twice, and indeed, the interest rates were claimed twice (once automatically, once manually), causing a payment surplus of $2.7 million paid by GECAMINES to BGFI». (19 Global Witness).

**GECAMINES** would therefore have paid indiscriminate money to BGFI, whose CEO would be a close associate of the President of the Republic. So **GECAMINES** would have financed (unduly) the President of the Republic. QED.

**UNFORTUNATELY THE FACTS, AS ALWAYS, ARE STUBBORN.**

Regarding the fact that **GECAMINES** would have paid interest twice, **GECAMINES** had officially communicated on November 8, 2016 on the subject by a right of response to Soir^44, which did not prevent Global Witness to take over this information, still testifying to a very relative degree of deontology. This is a material error and the reimbursement took place in nine transfers on September 14, 2016, prior to the publication of articles publicly implicating **GECAMINES** and its directors.

Less anecdotally, it is unfortunate to note the biased treatment of all information when it does not serve the cause advocated by the NGO. So :

- When the State, during the revisitation, cancels some permits, it is obviously in disregard of the most basic rights of the defaulting party and against its own interests (example Rejects of Kolwezi).

- When a vulture fund (FGH) seeks to recover on the back of the GCM a debt of the Congolese state, this is perceived as a quasi-disloyal action, «**GECAMINES** foils».

- When **GECAMINES** effectively exercises its right of preemption, it «recovers full ownership of the project» and the NGO seems to regret it.
3. First Quantum Minerals

The Board of Directors was not in charge at the time of the facts, but this «case study», specific terminology, which is probably intended to guarantee the reader the «seriousness» of the approach is particularly characteristic of the method of these NGOs.

The Carter Center report tells the reader that the post-revisit period is a great opportunity to develop new projects and generate tax revenue for the state. But in the light of what has happened, it is hard not to conclude that GECAMINES’ goal was not the generation of tax revenues for the state. And to conclude valiantly:

«A dollar for GECAMINES, is better than 2 USD for the Trésor».

So page 39, can we read: «The most striking example of the preference for revenue for the state enterprise to the detriment of long-term revenue for the Treasury, are the Releases of Kolwezi... In 2009, the Government removes the site of Releases to the Enterprise First Quantum Minerals... and sells the site to screen companies related to Dan Gertler.»

In 40 lines, is the Carter Center arguing that:

- the DRC would have been harmed by $ 2.6 billion in a sale
- The state would have been deprived of US $ 150 to 300 million in annual revenue

STEP 1
the state withdraws the site from FQM and IFC. At no time does the Carter Center explain why. However, the correspondence, both from the Minister of Mines and the Attorney General of the Republic invoke serious grounds for this action.

2ND STEP
The Carter Center reports that FQM «is a strong supporter of the mining code» and presents FQM as a great company «that has been waiting for the adoption of the code to take research permits and develop new projects through innovative technologies.»

One could possibly be sensitive to such a presentation, which has as only objective to show that this decision was unfair, if this judgment was carried by an impartial person. But it turns out that this flattering presentation is proposed by a certain Mike Parker, as we learn from the footnote, which is none other than the DRC representative of First Quantum Minerals.

STEP 3
«GECAMINES has the feeling of being sidelined, especially after the renegotiations of 2004, which had led its participation from 40% to 12.5% and its door step from 130 million to 15 million». One even wonders why the Carter Center emphasizes a point that speaks for itself. One would expect the state to have benefited from this renegotiation, but it appears that no and it shocks no one, at least by the Carter Center.

STEP 4
a few months later, GECAMINES is a new JV for releases with 5 companies established in British Virgin Island and «apparently» related to Gertler. The Carter Center is less peremptory than 35 lines above, in which he claimed that the operation had benefited Dan Gertler front companies.

STEP 5
the Carter Center writes without shaking that people are outraged, «the deal would have caused several billion losses to the DRC.»

The loss would be $ 2.6 billion tells us a footnote. Nevertheless, the Carter Center notes that the Africa Progress Panel’s estimate seems «to be a more rigorous estimate than that of British MP Eric Joyce». This does not mean that it
makes appear the more rigorous figure, but leaves in its text «the so-called billions».

In fact, in note 250, we learn that the more rigorous estimate, that of the Africa Progress Panel, is $665 million, or only 25% at all. But no approximation stops these heroic investigators.

What about the source of the Carter Center, in the person of this hon. Member for Great Britain, cited in reference. The Internet consultation tells us that he was arrested five times by the police during his tenure as a Member of Parliament, and was the most expensive English MP in the 2005-2006 parliamentary session.

More serious, it seems to have problems with the estimates as the Carter Center notes it, or the World in an article of November 29, 2011, which under a catchy title «A systematic plunder of the riches of the subsoil» indicates a few lines later «The estimate may be open to discussion».

It seems to confuse the valuation of the shares of what would have represented the value of 70% of the shares of the industrial project of Kolwezi, once in activity and the investments made and the No Door paid to GECAMINES within the framework of a new partnership. The conclusion is totally specious that GECAMINES would have sold 70 million which was worth £2.69 MM. This does not correspond to reality, the Pas de Porte being a right of entry into the project.

**STEP 6**

«State side is the hecatomb», «the change of ownership delays several years of copper production that should have started in 2010, but will not be operational before 2018. It is a net loss of 150 to 300 million a year after depreciation of the capital investment.»

Who announces these losses that allow Carter Center to accuse GECAMINES of privileging its interests to those of its partners. Once again, it is the FQM comments themselves of May 23, 2010 that the Carter Center reports, without bothering to check them.

Moreover, these figures seem to be largely unrealistic. The question of where this money would come from is unclear (dividends, taxes?), But assuming that after amortization and payment of loan interest the project was able to provide the Congolese State with 150 million and 300 million USD of taxes, that would have meant that the company would have generated a financial result between 500 and 1 billion USD and thus between 300 and 600 million USD of net result.

Considering that none of the mining partnerships has ever achieved any benefit in the DRC, and for some much larger than the rejections of Kolwezi, such as TFM or KCC, it is not unreasonable to question the credibility of these figures. which seem to have been invoked only to serve the needs of the cause.

**IF WE TAKE THIS SEQUENCE RATIONALLY:**

- FQM is being withdrawn by the Congolese government for non-compliance with its contractual obligations, which has not happened to everyone, but this fact is not noted by the Carter Center as a significant element.

- The contract review shows that GECAMINES is forming a more advantageous partnership with a 30% stake instead of 12.5%, and reaches 60M Pas de Porte instead of 15, and benefits from 2.5% of royalties, which she did not have before.

- To support his thesis, the Carter Center quoted a Member of Parliament, whose morality and skills are so unreliable that he disqualified himself by citing «more rigorous estimates». To support his claims, he gave the floor to a representative of FQM who was excluded from the DRC. In terms of credibility, it seems difficult to be more biased.
4. GECAMINES and vulture funds

«GECAMINES is even more assertive when a company named FG Hemisphère (FGH) tries to acquire one of its assets and a major source of income through the courts. Sometimes referred to as vulture funds - a concept rejected by the entity - this Delaware-based company would have paid $3.3 million in 2001 to buy back two old government debts in the 1980s for electrical infrastructures ... The debts amount to about 30 million USD, but based on two judgments of the CCI of Paris in 2003, the creditor seeks more than 100 million dollars, including fees and interest. ... FGH decides to sue the DRC and its entities in several courts around the world. Revenues include GECAMINES’ revenue in Hong Kong and Jersey’s Anglo-Norman Island. In the lawsuit in Jersey, FGH is trying to recover the shares of GECAMINES in the Groupement du Terril de Lubumbashi (GTL) a joint venture specializing in the treatment of cobalt-rich releases from Lubumbashi. FGH is also trying to get hold of GTL’s payments for discards worth tens of millions of dollars a year. The central question then is whether GECAMINES, as a state enterprise, can be legally considered as an organ of the DRC State, and therefore liable for the Congo’s debt. FGH will therefore try to prove that the assets of GECAMINES are used for state expenditure. For its part, GECAMINES affirms that its links with the state are limited. After a series of decisions in favor of FGH, the British Privy Council rules that a state enterprise can be assimilated to the State only in extreme circumstances, which it does not consider together in the case of GECAMINES.»

As for the creditors of the DRC, it is understood further that the fact that GECAMINES «foils» legal proceedings on «several continents» with the help of «international legal assistance» seems to be a problem at the Carter Center. One wonders what can push an NGO to defend such a position?

- The fact that a Delaware vulture fund, which is presented by the Carter Center elsewhere in the report as «a distressed debt fund»

- assigns GECAMINES, for debts on the Congolese State, dated April 2, 1980 and March 4, 1986, in favor of the National Electricity Company (SNEL), for effectively $40 million, which therefore have nothing to do with his activity,

- Debts that were reversed in 2001 and 2004 for $3 million,

- And that, thanks to her legal advice, she wins the lawsuits that were brought against her in jurisdictions outside her jurisdiction, could be hailed by the Carter Center as the recognition of her obstinacy and her good right.

NO, THE CARTER CENTER SEES ONLY ONE MANEUVER and we come to wonder if all in his moralistic quest, the NGO would not have preferred that the money is lost to the Congo in favor of a fund vulture whose activity is to take advantage of the difficulties of the developing countries, to make 100 million on what they bought 3 million.
5. GECAMINES, his right of first saying and his right of preemption

The Carter Center also seems to blame GECAMINES for asserting its rights in certain cases and especially during resales between partners of their actions. Thus, one can read: «In some cases, if one investor wants to buy back the other, the CMG requires the buyer to pay or advance several million dollars.» «To achieve this, the company exercises its right of pre-emption or refusal».

Thus we learn that GECAMINES would have benefited from $6 million ahead of its future royalties and $10.5 million donation from Jinchuan in the acquisition of METOREX, which we note in passing that the Carter Center evaluates the shares at $1.32 billion.

It never shocks the NGOs that the private partners do important operations on the basis of the value of the deposits that the State has granted them, without the local State or the partner being associated.

IT IS IMPORTANT TO PUT THINGS IN PERSPECTIVE.

- When selling the shares of a JV, GECAMINES has a right of pre-emption that it is free to exercise or not, as well as a right of first refusal, that it is free to exercise or not. There is nothing inappropriate about this, especially when we know that the conditions governing the sale of shares are not primarily governed by the ability of the buyer to operate in the mine, but much more for the seller to pay the agreed sum. It is therefore perfectly normal for GECAMINES to validate this sale.

- What makes the value of the sale in mining shares is exclusively the deposit, its contents, its type of mineralization and its volume, that is to say what the DRC and the legitimate holder of the title brought to the partnership. The technical installations are annexes and the financing also. The only wealth that allows fundraising and future income are the minerals in the basement.

The Carter Center seems to regret that the GECAMINES perceive something when sales shares of its partners who are alone to benefit from the added value that the deposit gives to the assets they yield.

- Thus the Carter Center informs us that GECAMINES, would have benefited from 0.79% of the sale price of METORE in Jinchuan, on the occasion of a sale whose profit for the seller is not known to him, but of which one is entitled to believe that it is probably in the hope of making a profit.

- On the sale of Anvil to MMG, for 1.3 billion USD, GECAMINES would have received 55 million USD, or 4.2% of the price of the sale.

- On the sale of Freeport to CMOC, GECAMINES received 100 million, or 3.6% of the total transaction.

On this last example, it is unfortunate that the Carter Center is never concerned about why GCM «blocked» the sale of one of its major JVs (TFM), or whether its action was legitimate.

For the reader’s understanding, GECAMINES recalls that its former partners wanted to sell their majority stake, and thus the effective control of this world-class mining asset, as if it were their only property, without warning either the state or GECAMINES, who had conceded them to them in a common society. GECAMINES notes that the seller realized a particularly important capital gain, a situation that could not happen again with the adoption of the new mining code, which now specifically taxes capital gains.
Moreover, **GECAMINES** wishes to point out that if it had had the financial means, it would have exercised its right of pre-emption on this JV, right that its partners tried to circumvent fraudulently with legal mounts specially created for the occasion in paradise tax. **GECAMINES** recalls that this JV has lived under the so-called regulated agreements until 2018, allowing it to enjoy more favorable benefits than common law since 1996. Yet despite the reform of the mining legislation of 2018, which repeals the regulated agreements, the latter continues to want to rely on its former derogatory regime, such as:

- not to communicate to the Central Bank, or to its partner, the terms of its loan agreements with the JV, as the law imposes on all operators, which involves several billion dollars of debts on which GCM does not has no control.
- not be obliged to use local subcontractors, if it is technically and economically feasible as the law requires all operators.
- not be obliged to repatriate 40% of commercial revenue in the DRC, as the law requires all exporters.

It is therefore unfortunate to note once again that Carter Center is only concerned with knowing what the Congolese State and **GECAMINES** are making revenues from its royalties and Pas de Porte, which constitute a minimal part of the revenues generated by the production. rather than trying to find out why **GECAMINES** partners are selling their holdings for astronomical amounts.

This attitude of the NGOs is characteristic of their propensity to be more concerned with defending the interests of the shareholders of these multinational companies than of the real development of the country and the repercussions of the exploitation of its subsoil.

«When a partner intends to resell its stake in the joint venture to a third party, **GECAMINES** exercises its pre-emptive right to buy at the offered price - thus recovering full ownership of the project. All the reserves previously identified by the investor will thus end up in the portfolio of **GECAMINES**.»

There is a hint of regret, as if there is a tinge of illegitimacy in exercising its right of pre-emption and the price offered, on deposits that after all belong to the DRC, rather than leaving them exploit by foreign investors.

**FOR EXEMPLE**:

«**GECAMINES also blocks the sale of a title for the rich DEZIWA deposit. After Platmin has identified significant copper reserves, it is trying to sell 68% of its stake for $ 284 million. Congolese leaders do not like the public announcement and especially not to have informed. They say they have been misinformed and consider that investors are trying to flout Congo.»

How strange, because the Carter Center itself writes, «Platmin claims to have found 958,000 tonnes of copper and 85,375 tonnes of cobalt. On the other hand, the buyer announces on the Hong Kong Stock Exchange that the project involves almost 4.6 million tons of copper resources and 388,800 tons of cobalt», a small pellet that ignores 3.6 million tons of copper, , and 300,000 tonnes of cobalt, not really bothering you.

«Methodology error» - The Carter Center tells us that the difference in volumes is due to a methodological error. This would have confused resources and reserves in the sense of the JORC code. And we would have accounted for only copper above 2.5%. This situation would be due to mistakes of beginners, what these investors are not yet. But aside from that, the Carter Center quotes a Platmin representative, who laments and says «La **GECAMINES** would try to steal their project for two years.»
Finally **GECAMINES** bought the whole for $185 million in 2012.

If we summarize, **GECAMINES** granted a title to Platmin supposed to develop the project industrially. This investor, as soon as he certified the deposit tried to resell another investor, without even talking to his partner, while underestimating the reserves of the deposit.

In other words, **GECAMINES** learns that his partner, with whom he is supposed to have forged a win-win, trust-based partnership, is trying to sell the deposit he has conceded behind him, having at least overshadowed the real reserves.

On hearing this news, **GECAMINES** is exercising its right of first refusal, on what constitutes the most beautiful project of **GECAMINES** currently in the development phase and whose commercial production is scheduled for January 2020.

**BUT YET THE ACCUSED IS ...**
CONCLUSION

At the end of this journey, we believe that the factual elements that we have produced will have achieved their objective. We hope that they have made it possible to remove any doubt from our readers’ minds and have enabled them to distinguish between innuendo, anonymous and often slanderous denunciation, the consultation of documents unreferenced and what is the reality.

More broadly, we hope that observers will now exercise a less complacent eye on anything that is published about our company or our country by these NGOs. Because these, and especially those who finance them, are not as virtuous as they claim, and indecently use the credit that is granted to them by the public to promote their hidden agenda. One must not be fooled by their activism: they make politics in the first sense of the word and are one of the new players in the modern promotion system of big interests or great powers.

If not, why claim for some of them and beyond all reason, and why resume for others, the assertion that it would have been possible to remove $750 million from the accounts of a company in the DRC as if we were in a country of lawlessness?

Why echo those who accuse us of not paying taxes to the state, not paying our employees, not investing in our production apparatus, digging our debt? Probably because slander because it is still something or because they are persuaded that before the court of public opinion, a Congolese company like GECAMINES is presumed guilty and that it would justify all means.

From now on, no one will be able to say that he did not know. All those who will resume accusations of the reports of these NGOs, even by attaching a conditional, will be guilty of defamation. Those who engage in it will nonetheless sign their will to attack us in the name of modern colonialism tinged with unhealthy paternalism.

Beyond the harm done to our company, we especially regret the attacks against our country, a great country of Africa, because they help to reinforce the negative image of which it is unjustly the victim and to make its march towards the development still more difficult than it already is.

Ten years of internal and external war, 8 million deaths, 80 million inhabitants on an area equal to that of Western Europe, an administration blunted and therefore ineffective, do we not already have sufficient historical brakes and geographic and demographic challenges that stand before us so that some distant pharmacies come to give us moral
lessons and propagate erroneous facts, thus contributing even more to our difficulties.

I am convinced that these attacks, of which GECAMINES is now the recurring target of these NGOs, are beyond us. Through us, it is our country that is targeted, and I believe it more widely an African model of development, sovereign, who no longer tolerates telling him how and with whom he must share his natural wealth.

Our country and our continent are today at a crossroads and we have two choices.

That of the status quo, or even of the regression, in which we would continue to watch the globalization pass and in which our reserves would continue to be exploited, mostly by foreign operators on our soil, with an insufficient return for the State. and the community.

Or another, more optimistic one that will predominate a more socially and ecologically responsible exploitation of these minerals, which will allow, thanks to an adapted tax system and efficient national operators, to generate revenues that will allow the DRC to actually start, I say well actually walking towards emergence.

But the emergence of our country can never happen, if as today the mining sector remains a bubble, above ground, insensitive to what is happening around him.

The commodities boom, especially strategic, offers us today a unique opportunity to promote the mining vision of the African Union, in favor of «... a developmental state integrating the mining sector into broader development processes. Socioeconomic. This is not only about ending the isolation of the mining industry from other basic socio-economic activities, but also about ensuring that it benefits all stakeholders», and to radically reform the system that has been imposed on us since 2002.

This is why the action that GECAMINES is taking today in favor of its reconstruction and the redeployment of its mining activity, is a test for ourselves, but also for all those who observe us in Africa and would like to reclaim their destiny. National.

These NGOs will not hinder us in our desire to remake GECAMINES a flagship of African industry.
1 Enough Project published on October 30, 2018, entitled: «Put an end to corruption. Eliminate transparency and human rights risks from DRC cobalt mines to global supply chains».


49 Carter Center P.42 Ibid
47 Carter Center P. 94 note 250
46 Carter Center P. 91 note 213
42 Ernst & Young
44 http://blog.lesoir.be/colette-braeckman/2016/11/08/la-reponse-de-la-GECAMINES/
45 Carter Center P. 39 ibid - Note the writer’s creativity to capture the reader’s attention. GECAMINES could just as well say in the same vein, with the CARTER, the EITI is when I want!
44 MAZARS
46 Carter Center P. 91 note 213
47 Carter Center P. 94 note 250
49 Carter Center P:42 ibd
50 Carter Center P:58 ibd
51 Carter Center P:60 ibd

11 It was for the publication of the 2013-14 EITI-ROC Combined Report that companies implementing the EITI process were required to report their financial statements in order to make their statements more reliable with the views of the External Auditors or auditors. Independent Auditors having certified these financial statements. It is in this context that GECAMINES also began, as of 2015, to communicate its financial statements to the EITI. The first financial statements provided by GECAMINES relate to 2013.

12 The work is carried out in accordance with the best international practices for the preparation of the EITI Report and has been conducted on the basis of the International Standards on Related Services (ISRS) standards issued by the International Federation of Accountants (IFAC). ISRS 4400, «Financial Information Review Missions Based on Agreed Procedures» and ISRS 4410, «Financial Information Compilation». These standards involve a high degree of integrity, ethics and ethics, as well as rigorous procedures to ensure the relevance, quality and objectivity of the work.

13 This is actually $ 1,294,125,346.

14 Carter Center ibid P. 47
15 Carter Center P. 69 ibid
16 Carter Center P:105 ibd
17 Carter Center P:69 ibid
18 https://www.iierdc.net/
19 2012 EITI-ROC Report, P. 123.
20 Carter Center P:69 ibid
21 Carter Center P:69 ibid
22 Carter Center P:69 ibid
23 Carter Center P:3 ibd - Enough Project P.
26 May 9, 2012, «The secrecy surrounding Glencore’s transactions in the DRC risks exposing shareholders to corrupt practices».
27 Board meeting minutes of March 7, 2011
28 Board of Directors’ report of March 25, 2011
29 Board Minutes of December 18, 2011
30 Carter Center P.7 ibid
31 «The bank’s automatic cash machine – How are the burgeoning exports of the Democratic Republic of Congo do not benefit its inhabitants?»
ANNEXES 1

Secretariat Technique
Tél. +243 814 353 244 - +243 824 855 057
Email: secretariat@itierdc.org
B.P. 200 Kin 1
Av. Roi Baudouin n°29/31 Kinshasa/Gombe
République Démocratique du Congo

Kinshasa, le 08/10/2018
N°459 /COORD/ITIE-RDC/PN/2018

A Monsieur le Directeur Général a.i.
de la GECAMINES SA
à Lubumbashi/Haut-Katanga

Concerne : Accusé réception
Eléments de clarification relatifs au rapport de revue des états financiers

Monsieur le Directeur Général a.i.,

J’accuse bonne réception de votre lettre n° 963/DG/18 du 18 septembre 2018 par
laquelle vous transmettez à l’ITIE-RDC les éléments de clarification relatifs au Rapport
de revue des états financiers de la GECAMINES SA pour l’exercice 2016, effectuée par
le Consultant Fortunat Khondé Wilu et vous en remercie.

J’apprécie l’intérêt que vous réservez à nos rapports, la célérité avec laquelle vous avez
réagi et la pertinence des arguments contenus dans la note à notre attention.
Après leur analyse par le Groupe Technique de Travail (GTT) du Comité Exécutif, il me
revient de constater que la plus part d’éléments ont été pris en compte et intégrés
dans l’édit Rapport.
Vous trouverez en annexe à la présente, la synthèse présentée par le GTT.

Je vous prie d’agréer, Monsieur le Directeur Général a.i., l’expression de ma
considération distinguée.

Holeun Among Marie Thérèse
Coordonnateur National a.i de l’ITIE-RDC

Transmis copie pour information à :
* Son Excellence Monsieur le Ministre d’État, Ministre du Plan et
  Président du Comité Exécutif de l’ITIE-RDC
  à Kinshasa/Gombe
Concernant la validation de la demande de la confirmation des soldes de GCM

1. Nous avons bien reçu votre lettre selon le numéro de référence du 23.01.06 de 2013. 
2. Les montants demandés à payer au 31 décembre 2012 sont 1200 000 000 000 de dollars.
   
   Monsieur le Directeur,
   
   Veuillez agréer, à la Cour, l'expression de la haute considération de votre serviteur,

   [Signature]

   ANNEXES 2
3. Les montants payés au courant de l'exercice 2012 sont de 175 000 000 dollars américains. 

Veuillez agréer, Monsieur le Directeur, l'expression de notre parfaite considération.

致敬意！

Directeur en charge des affaires financières

Administrateur Délégué

符香超

SUN Ruiwen
ANNEXES 3

N° CAB/MIN/FINANCES/FIS/CNB/2017/4759

Transmis copie pour information à :

- Son Excellence Monsieur le Président de la République, Chef de l’État
  (Avec l’expression de mes hommages les plus dévoués)
  Palais de la Nation

- Son Excellence Monsieur le Premier Ministre,
  Chef du Gouvernement
  (Avec l’expression de ma très haute considération)
  Hôtel du Gouvernement

- Monsieur le Vice-Ministre des Finances
  (Tous) à KINSHASA/ GOMBE

- Monsieur le Président du Conseil d’Administration de la GECAMINES S.A
- Monsieur le Directeur Général a.i. de la GECAMINES S.A
  Blvd Kamanyola, 419
  (Tous) à LUBUMBASHI/ HAUT-KATANGA

A Madame et Messieurs les Directeurs Généraux de la
  • DGRAD
  • DGI
  • DGDA

(Tous) à KINSHASA /GOMBE

Concerne : Titrisation et compensation des avances faites
  au Trésor Public par la GECAMINES

Madame et Messieurs les Directeurs Généraux,

Subsidiairement à ma lettre n° CAB/MIN/-
FINANCES/FIS/CNB/2016/0038 du 06 janvier 2017, relative à l’objet repris en concerne, et
tenant compte des informations et avis me transmis par vos soins, je vous demande, chacun en ce
qui le concerne, d’inscrire au crédit de la GECAMINES, dans vos comptes concernant respectifs, une
quote-part de l’avance de 85 millions de dollars américains consentie au Trésor Public en 2016, selon
la répartition ci-après :

Sincerely,

[Signature]
ANNEXES 3

- Pour la DGI, 40% du montant, soit 34 millions USD ;
- Pour la DGRAD, 40% du montant, soit 34 millions USD ;
- Pour la DGDA, 20% du montant, soit 17 millions USD.

Ces crédits seront imputés progressivement sur les soldes débiteurs de cette entreprise, à l'exclusion des pénalités dues à vos régies, à concurrence d'au moins 20% de leurs montants par mois.

Par ailleurs, il vous sera ultérieurement communiqué les montants des avances consenties par la GECAMINES, avant 2016, après certification par mes services, en vue d'une prise en charge à venir.

Veuillez agréer, Madame et Messieurs les Directeurs Généraux, l'expression de ma considération distinguée.

[Signature]

Boulevard du 30 juin - Kinshasa - Gombe - Courriel : cabinetfinances@minfinrdc.com - URL : http://minfinrdc.com
ANNEXES 3

Ministère des Finances

Le Ministe

DIRECTION GÉNÉRALE DES FINANCES

Reçu le 16 oct. 2017

N° CAB/MIN/FIANCES/FIS/CNB/2017/17

Transmis copie pour information à :

- Son Excellence Monsieur le Président de la République, Chef de l’État
  (Avec l’expression de mes hommages les plus dévoués)
  Palais de la Nation

- Son Excellence Monsieur le Premier Ministre, Chef du Gouvernement
  (Avec l’expression de ma très haute considération)
  Hôtel du Gouvernement

- Monsieur le Vice-Ministre des Finances

(Tous) à KINSHASA/GOMBE

- Monsieur le Président du Conseil d’Administration de la GECAMINES S.A.

- Monsieur le Directeur Général a.i. de la GECAMINES S.A.
  Blvd Kamanyola, 419

(Tous) à LUBUMBASHI/HAUT-KATANGA

A Madame et Messieurs les Directeurs Généraux de la

- DGRAD
- DGI
- DGDA

(Tous) à KINSHASA/GOMBE

Concerné : Titrisation et compensation des avances faites au Trésor Public par la GECAMINES

Madame et Messieurs les Directeurs Généraux,

Il vous souviendra que par ma lettre du 26 avril 2017, référencée CAB/MIN/FIANCES/FIS/CNB/2017/1759, je vous avais instruit de prendre en charge, dans vos comptes courants respectifs, une première tranche des avances consenties au Trésor Public par la GECAMINES et ce, en attendant la certification des autres paiements par la Banque Centrale du Congo.

Me référant à la lettre référencée D.23/Gouv/n° 1181 du 04 octobre 2017 de Monsieur le Gouverneur de la Banque Centrale du Congo, je vous informe que le montant des avances faites par la GECAMINES au Trésor Public
ANNEXES 3

- Pour la DGI, 40% du dit montant, soit 34 millions USD ;
- Pour la DGRAD, 40% du dit montant, soit 34 millions USD ;
- Pour la DGDA, 20% du dit montant, soit 17 millions USD.

Ces crédits seront imputés progressivement sur les soldes débiteurs de cette entreprise, à l'exclusion des pénalités dues à vos régies, à concurrence d'au moins 20% de leurs montants par mois.

Par ailleurs, il vous sera ultérieurement communiqué les montants des avances consenties par la GECAMINES, avant 2016, après certification par mes services, en vue d'une prise en charge à venir.

Veuillez agréer, Madame et Messieurs les Directeurs Généraux, l'expression de ma considération distinguée.

Henri MULANG
LA GÉNÉRALE DES CARIÈRES ET DES MINES
Société Anonyme Unipersonnelle avec Conseil d’Administration
GÉCAMINES S.A.
Siège Social : 419, Bd. Kamanyola, Commune de Lubumbashi
Ville de Lubumbashi, Province du Haut-Katanga
RÉPUBLIQUE DÉMOCRATIQUE DU CONGO