



*Publish What You Pay Coalition
C/o Henry Parham, Coordinator
5th Floor, Cambridge House
100 Cambridge Grove
London W6 0LE
United Kingdom
T: +44 (0) 20 7031 0204
F: +44 (0) 20 7031 0201
coordinator@publishwhatyoupay.org
www.publishwhatyoupay.org*

Mr. Emmanuel Mbi
Country Director
Republic of Congo
World Bank
1818 H Street, N.W.
Washington, DC 20433
U.S.A.

24 September 2004

Dear Mr. Mbi,

Re: The Republic of Congo (Brazzaville) – EITI Participation

As members of the international Publish What You Pay (PWYP) coalition, which has over 240 NGO members worldwide, we are writing to you regarding the progress of fiscal transparency reforms in the Republic Congo (ROC).

We are particularly concerned by the World Bank press release of 14 September 2004 regarding the recent donors' meeting, which suggests that the Bank and other donors are keen to adopt a macro economic support programme before key transparency reforms have been completed by ROC (*for a full explanation of our concerns please see attached letter sent to donors on September 10*).

We would also like clarification of the reference in the press release to ROC being 'one of the most advanced African countries for each of the five criteria of the Extractive Industries Transparency Initiative (EITI)'. We believe this reference to be inaccurate and misleading.

Firstly, these five criteria were mentioned in an EITI working paper and do not constitute a formal EITI policy. They represent the common agreed view of various UK-based stakeholders on the minimum level of what constitutes implementation of EITI as of May 2004, but these criteria are open to further debate and refinement. Indeed, the civil society groups represented at EITI would argue that there is a need for a new policy debate over a series of pressing quality-control and legitimacy issues, including the lack of clear implementation procedures. This is particularly pertinent in the light of current 'best practice' in Nigeria, and of the EITI 'quality control' and 'brand protection' issues highlighted by the recent Riggs Bank scandal involving misappropriation of oil revenues by the Equatorial Guinean government, who claimed to be a participant in EITI.

Secondly, we believe there is no sense in which ROC can be said to have fulfilled all, or indeed any, of these five criteria satisfactorily.

The five criteria are:

1. Baseline independent audit (appointed following International Competitive Bidding) of oil, gas and mining payments by companies (“payments”) and revenues received by government (“revenues”);
2. Baseline publication of payments and revenues in a *publicly accessible and comprehensible manner* which where necessary will permit national aggregation of company data [emphasis added];
3. The above is extended to all companies including state owned enterprises;
4. Civil Society is actively engaged as participants in the design, monitoring and public debate around this process;
5. An agreed work plan with steps required to move to full implementation – for example, capacity building of government, industry, local NGOs, and measurement of achievement against targets, with agreed time lines.

While recent newspaper reports suggest ROC intends to participate in the EITI, the government has made no public declaration of its intention to participate in the EITI. Thus there is in no sense an agreed work plan with timetable to move to full implementation and to date there has been no consultation with civil society (criteria 4 & 5).

As regards the independent audit and publication of payments and receipts (criteria 1-3), there has only been one audit of SNPC’s accounts from 1999-2001 by KMPG. While the summary of the audit and recommendations were published on a government’s website, the full report has not been published and the auditors complained of not being given full access to all documentation. There has been no publication of the audit of SNPC’s 2002 accounts, no audit of the accounts of the state refinery CORAF, and no audit of the private sector operators.

In addition, while we welcome publication on some data on the government website and see this as an important step forward, publication of the quarterly certification of receipts from SNPC by KMPG and of PSAs does not constitute publication of all payments made by companies and all income received by ROC from oil revenues. Certification covers only production-related income, and not bonuses, settlement outcomes and other ‘non-recurrent’ payments.

Moreover, there is a concern that, given the level of internet access in ROC and the technical capacity required to analyse the data published, publishing information on a website in this way does not constitute making it available to Congolese civil society and international scrutiny in a *publicly accessible and comprehensible manner* (criterion 2).

Above all we are concerned that ROC should not adopt a lower standard of disclosure under EITI than is being currently implemented in Nigeria. Nigeria’s implementation of EITI was announced by a public declaration by President Obasanjo. As per the Nigerian model, we believe ROC should commit to disclosure of quarterly and annual payments to the government by extractive companies on an individual basis. This would make tracking revenue streams much easier and indeed is the norm in developed countries.

Equally, ROC should not adopt a lower standard of civil society participation than in Nigeria. Nigeria has convened a National Stakeholders Council, and independent civil society is a key participant in the design of the EITI process.

In light of this, as we outlined in our letter to donors prior to the Paris meeting, PWYP believes that bilateral and multilateral donors should not be rewarding ROC with any lending or technical assistance programmes before key indicators of fiscal transparency and accountability have been met.

Such indicators should include:

1. A public declaration by the Congolese government of their intention to participate in the EITI;
2. A public commitment that Congo will not have a lower standard of disclosure under EITI than Nigeria, in particular, a public commitment to individual company disclosure;
3. A public commitment by the government to full independent civil society participation in the design of the EITI process in Congo;
4. Implementation of outstanding transparency measures agreed with the IMF so that there is full accounting for oil-related resources including windfall revenues. For instance:
 - publication of the 2002 audit of SNPC;
 - audit of the 2003 accounts of CORAF;
 - implementation of the SNPC action plan;
5. As well as:
 - Cost audits of the private sector operators by an independent third party;
 - Audit of the country's oil-backed debt obligations;
 - Disclosure of the full terms of the 2003 agreement reached between ROC and Total to settle outstanding disputes.

We would be pleased to discuss any of these issues with you further and are available for a meeting with you at any point in time.

Yours sincerely,



Christian Mounzeo
Coordinator
Congolese Publish What You Pay coalition



Henry Parham
Coordinator

*Publish What You Pay representing the 240 members of the international
NGO coalition*

*pp. Michel Roy
Director of International Advocacy
Secours Catholique / CARITAS France representing the members of the
Publish What You Pay NGO platform in France*

**CC. Participants of the 14 September Congo donors' meeting in Paris
World Bank Executive Directors
EITI Team at the Department for International Development, UK**