

3rd April 2014

To

European Investment Bank
Werner Hoyer, EIB President

Dear President Hoyer,

We are writing to express our grave concern about the secrecy surrounding the Bank's investigation of tax evasion and avoidance allegations against Mopani Copper Mines plc, a Zambian company, which is largely owned by GlencoreXstrata.

As you know, the Bank publicly announced its investigation nearly three years ago, in May 2011. The announcement followed the leak of a draft audit report about Mopani, by auditors from Grant Thornton and Econ Pöyry.

The draft audit report highlighted a number of points, including the following:

- Mopani's possible use of derivatives trades to shift profits out of Zambia in order to minimise its tax bill in the country.
- Mopani's failure to satisfy auditors that its sales of copper, mostly to sister companies, were in line with the 'arm's length principle' which is supposed to help prevent tax avoidance and evasion in trades between different parts of the same company.
- Mopani's failure to convince the auditors that its records of expenditure and income were trustworthy. For instance, the audit report questions Mopani's claim that its labour costs increased dramatically between 2005 and 2007, saying that 'at least USD\$50m of the USD\$90 million is thus unexplainable.'
- The auditor's suggestion that Zambia's tax authority should reassess the company's tax bill. 'We believe that the Mopani cost structure cannot be trusted to represent the true nature of the costs of the Mopani mining operation and that there is reason to follow up the uncovered inconsistencies in a more determined manner,' said the auditors.

Whether or not these allegations are true – and Glencore has denied wrongdoing – Zambian government ministers have clearly stated that tax evasion and avoidance by mining companies is a major problem for the country. This is an important part of the context of the Mopani-Glencore case.

Another part is that Zambia's mineral resources will run out and so it is vital that the country gets its fair share of the profits from those resources now, while they still exist. It is also clear that Zambia urgently needs more tax revenue, in order to fund better schools, health services, infrastructure and all the other public goods and services funded by tax. People in Zambia are very poor - with GDP per capita of some \$1,426 in 2011 and average life expectancy of around 50 years, according to UN statistics.

This is the background against which we write to you about the Bank's report of its investigation of what really happened at Mopani-Glencore. We assume that the Bank has been able to establish the truth or otherwise of the tax evasion and avoidance allegations and we believe that the people of Zambia and Europe have a right to know what really happened.

The people of Zambia have a right to access information about the conduct in their country of a major multinational, which is profiting from their natural resources. The people of Europe

meanwhile also have a right to know what the truth is, given that their Governments are the Bank's shareholders.

Regardless of the content of the Bank's report on Mopani-Glencore, we note that keeping it secret would be a clear breach of the Bank's own transparency policy. The policy states that the Bank is 'committed to achieving the highest possible level of transparency in all its activities' and that it recognises that 'openness on how it makes decisions, works and implements EU policies strengthens its credibility and accountability to citizens...'. The policy also states that 'all information held by the EIB is subject to disclosure on request, unless there is a compelling reason for non-disclosure'.

We fail to see how these statements are compatible with the Bank's conduct so far in relation to its investigation of the allegations against Mopani-Glencore. Given the upcoming revision of the EIB transparency policy, the non-disclosure of the report sends a worrying signal and raises question about the Bank's overall accountability.

A further point of concern is that it is now close to nine months since Christian Aid made a formal complaint to the Bank about its failure to publish the Mopani-Glencore report. Despite having had this considerable period of time, the Bank still has not replied to the complaint. We consider this an inexplicable and unacceptable delay.

For all these reasons, our organisations are gravely concerned about the Bank's secretiveness in relation to what happened at Mopani-Glencore. We cannot conceive of anything that would justify such secrecy and we therefore urge the Bank to reveal the truth by publishing the above mentioned report as a matter of urgency.

Yours Sincerely,

List of signatories

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Global Alliance for Tax Justice

