

OFFICE OF THE PRESIDENT  
SECRETARIAT GENERAL

REPUBLIC OF GUINEA  
Work – Justice – Solidarity

No. 0856\*/PRG/SGP/SP/

Conakry, July 30, 2008

The Minister Secretary General

For the attention of:

The Chief Executive,  
Simfer SA  
POB 848  
Conakry

**Re: Answer to letter**

Dear Sir,

Further to your letter dated June 11, 2008, I can confirm the legality of the decision to withdraw Decree No. 2006/008/PRG/SGG dated March 30, 2006, on account of it not having a legal basis, since the said document does not comply with the rules for the drawing up of an administrative order in accordance with our laws.

The fact that this basic agreement was ratified and promulgated by Law No. L/2003/3/AN of February 3, 2003 as a law of the Republic cannot gloss over the reasons in fact and law that must be addressed by this Decree in both form and content in the granting of a mining concession.

Parliamentary ratification of a mining agreement is based upon Article 77 para. 2 of the Basic Law on account of its economic and financial provisions. It can only affect the legislative provisions if these do not concern public order. In the meaning of Article 183, the legal and technical provisions of the Mining Code are paramount, meaning that the parties cannot deviate from them through individual agreements.

This means that the Government does not have a discretionary choice between the route of a contractual agreement and a unilateral agreement in the granting of a mining concession to a mining company. It is obliged to go the route of a unilateral, administrative order while complying with the legal conditions for granting of the said order, on account of the legislative basis of the authority of this decree.

For these reasons, the government deems that it is entitled *ab initio* to correct Decree No. 2006/008/PRG/SGG of March 30 that granted you a mining concession.

To this day and for eleven (11) years you have only prospected a single block in the Mount Simandou range, where according to technical sources you have displayed

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\*Translator's note: first four digits not completely legible

several billion tons of proven deposits and according to yourselves 2.25 billion without having submitted a Feasibility Study to start the works in the three (3) years following the date of obtaining the mining concession.

That is to say that on your part there is a clear wish to freeze the deposit, not just in this block but also in other parts of the Simandou range.

The Government cannot tolerate this situation since in law the undertaking of mine working obliges you to take all necessary measures for the extraction and commercial shipment of the ore.

This is the definition that the Mining Code gives to working a mine.

In other words, the delay in implementing the infrastructure, extraction and removal is a breach of the legal undertakings linked to obtaining the mining concession granted under Decree No. 2006/008/PRG/SGG of March 30, 2006.

That is why we again ask you to comply with the national mining law, by producing a Feasibility Study that will specify the first commercial shipment of iron ore at the earliest possible date. In the meantime the Government is bound to assume its responsibilities towards the population in its efforts to reduce poverty in our country, by awarding the commercialization of its natural resources to more conscientious partners.

While acknowledging your financial efforts to commercialize the ore in the block prospected to date, I would ask you to hereby accept receipt of Decree D/2008/041/PRG/SGG dated July 28, 2008.

Yours sincerely,

SAM MAMADY SOUMAH

[Stamp: illegible]

Encl. Decree D/2008/041/PRG/SGG dated July 28, 2008 revoking Decree No. 2006/008/PRG/SGG of May\* 30, 2006

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\* Translator's note: original states May, even though all previous references are to March



Par ailleurs, il reste constant qu'à ce jour et depuis onze (11) années durant vous n'avez prospecté qu'un seul bloc de cette chaîne de montagne du Simandou où vous avez mis en évidence selon les sources techniques plusieurs milliards de tonnes de gisement prouvé et selon vous 2,25 milliards de tonnes sans présenter une étude de faisabilité pour le démarrage de l'exploitation dans les trois (3) années qui ont suivi la date d'obtention de la concession minière.

C'est dire qu'il y a de votre part une volonté manifeste de geler le gisement minier non seulement dans ce bloc mais aussi dans les autres parties de la chaîne de Simandou.

L'Autorité ne saurait tolérer cette situation puisque du droit, l'entreprise d'exploitation vous oblige à prendre toutes les dispositions utiles pour l'extraction et l'expédition commerciale du minerai.

Telle est la définition que le code minier donne à la phase d'exploitation minière.

En d'autres termes, le retard pris dans la réalisation des infrastructures, l'extraction et l'expédition est une violation des obligations légales liées à l'obtention de la concession minière octroyée par le Décret N°2006/008/PRG/SGG du 30 mars 2006.

C'est pourquoi, il nous revient de vous inviter à vous conformer à la loi minière nationale, par la production d'une étude de faisabilité prévoyant le démarrage de la première expédition commerciale du gisement de fer mis en évidence dans les meilleurs délais. D'où là, l'Autorité est tenue de prendre ses responsabilités à l'égard de sa population, dans son effort de réduction de la pauvreté dans notre pays en confiant la valorisation de nos ressources naturelles à des partenaires plus diligents.

Tout en respectant vos efforts financiers pour la valorisation des minerais du bloc prospecté à ce jour, je vous remercie de recevoir par le présent, la notification du Décret D/2008/041/PRG/SGG du 28 juillet 2008.

Je vous prie d'agréer, Monsieur le Directeur Général, l'assurance de ma considération distinguée.

D/2008/041/PRG/SGG du 28 juillet 2008  
Recevant le Décret n°2006/008/PRG/SGG du  
30 mars 2006

SAM MAMARY SOUMAH