

# **FG Hemisphere vulture fund's latest victory against the Democratic Republic of Congo (DRC). What is Belgium doing?**

Tuesday 4 January 2011, by [VIVIEN Renaud](#) (Date first published: 21 December 2010).

**Vulture funds continue to wreak havoc in the countries of the South. Democratic Republic of Congo (DRC) has to pay the price by losing a new lawsuit against the FG Hemisphere Hedge Fund before a court in Jersey. Unfortunately, this new wound was predictable.**

In fact, FG Hemisphere always uses the same method which is characteristic of Vulture funds. Like most Vulture funds FG Hemisphere has its bases in a tax haven (in Delaware, in the heart of the US) and in 2004 it purchased old discounted debts of DRC dating back to the '80s (real value of which is \$37 million) and then seized the Anglo-Saxon justice system (the Jersey Court) particularly protective of creditors in order to obtain reimbursement of that debt's nominal value, plus default interest and other penalties (totaling approximately \$100 million).

Thus FG Hemisphere has obtained the right for the reimbursement of a debt of \$100 million while it had disbursed only \$37 million! And every day this debt increases by \$27,500 due to interest! [1] To ensure the settlement of this debt the Jersey court authorized FG Hemisphere to seize a portion of future profits of the joint venture GTL (Terril Group of Lubumbashi), which has the George Forrest group and the Congolese government through the semi-state-owned company Gecamines- a public mining enterprise in the Katanga province- among its shareholders. Let us remember that in 2008 FG Hemisphere had already obtained the right to collect, during the next fifteen years, revenues from selling electricity to South Africa and in February 2010 the Hong Kong Appeals Court authorized it to seize a portion of entry fees paid by China to the DRC for exploring a mineral deposit.

And that's not all, because other vulture funds have joined the dance, demanding more than \$452 million from the DRC in front of tribunals. [2] So there is a great danger that the money, which was released through the Congolese debt relief when the Kinshasa authorities yielded to pressures from Western creditors, could be raided by these vulture funds. Vis-à-vis these attacks, the Congolese government has asked for the help of African Legal Support Facility, an organization created in 2008 by the African Development Bank (ADB), particularly to assist nations attacked by vulture funds. [3] This new body has the merit of offering practical assistance to countries affected by these hedge funds, with lawyers at their disposal for negotiating with these vulture funds and defending the countries in front of judges. [4]

However, this aid is insufficient, given the magnitude of the phenomenon. At present vulture funds have dragged about a dozen African countries into about fifty court cases and hurled them amidst the global crisis. So there is the risk of another debt crisis in the South. Their greed will certainly increase because they will buy out outstanding claims on developing countries with extremely low amounts and increase their profits.

Please note that these attacks are not confined to Africa. For example, Argentina is now prey to two vulture funds, Elliott Capital and EM Limited, who are trying to seize the funds deposited by the Argentine government with the Bank for International Settlements (BIS)- an amount exceeding \$ 1 billion. Nothing hinders (for the time being) the vulture funds from attacking the North next, given the speculative practices on their debts. In this context, further measures are needed to take the vulture funds out of harm's way. [5]

For this, we must change the rules of the game because the activities of vulture funds are (currently) legal. In other words, the authorities must make their activity illegal by unconditionally prohibiting speculation on State debts, which only benefits a handful of unscrupulous individuals. Pending an international initiative of this kind, parliaments in the South and North should immediately and unilaterally adopt legislation to restrict the activities of vulture funds. Belgium became a pioneer in 2008 by introducing a law making Belgian development assistance funds "non-transferable and untouchable". It must now extend the scope of this law to all funds (public and private) born in Belgium and advocate within the European and international bodies for the generalization of this type of mechanism.

Finally, Belgium must cancel the entire Congolese debt and implore other creditors of the DRC to follow suit. In fact, the external public debt of the DRC still exists. It still amounts to \$ 3 billion and there is a chance of its increase soon, especially under the effect of the global crisis, the conditions imposed by international financial institutions and unjust loans from China. The resolution adopted by the Belgian Senate on 29<sup>th</sup> March 2007 urged Belgium to cancel all odious debts, such as the ones contracted by Mobutu's dictatorship, and implement a debt-audit for developing countries. But the resolution was ignored. [6] What is Belgium doing?

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**P.S.**

\* Traduction from French: Suchandra De Sarkar.

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## Footnotes

[1] <http://www.bloomberg.com/news/2010-...>

[2] <http://www.lesafriques.com/actualit...>

[3] This organization has just donated 5, 00,000 US dollars to the DRC for paying the fees of a law firm.

[4] See in French [Fonds vautours : l'Afrique riposte ?](#)

[5] Please read the report of the Debt and Development Platform and of NCCD-11.11.11, "A vulture may hide another: or how our laws encourage predators of Indebted Poor Countries"(2009) [http://www.cncd.be/IMG/pdf/RAPPORT\\_...](http://www.cncd.be/IMG/pdf/RAPPORT_...)

[6] Renaud Vivien, Abolition of third world debt, CRISP publication (2010).