









RWI Index Questionnaire: Democratic Republic of the Congo 2012

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Indicator	Score
4.1.1	Context
4.1.1 Context	
4.1.1.050: Has the government created a special fund or natural resource fund that concentrates revenue directly from oil, gas or mineral extraction?	
Score: A <input checked="" type="radio"/> B <input type="radio"/> C	
References: No special fund created.	

4.1.1.051: What authority is responsible for the natural resource fund?

Score: A B C D E**References:**

N/A

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Indicator		Score
4.2.1	Comprehensive reports	N/A
4.2.2.056	Audited reports	N/A

4.2.1 Comprehensive reports

4.2.1.052: Are the rules for the fund's deposits and withdrawals published, including the formula(s) for deposits and withdrawals?

Score: A B **C**

References:

N/A

4.2.1.053: Does the fund management or authority in charge of the fund publish comprehensive information on its assets, transactions and investments?

Score: A B C D **E**

References:

N/A

4.2.1.054: Are the reports containing information on the fund's assets and transactions understandable?

Score: A B C D **E**

References:

N/A

4.2.1.055: How often are financial reports published by the fund management or authority in charge?

Score: A B C D **E**

References:

N/A

4.2.2.056 Audited reports

4.2.2.056a: Are the fund s financial reports audited?

Score: A B C D **E**

References:

N/A

4.2.2.056b: Are the audited financial reports published?

Score: A B **C**

References:

N/A

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Indicator	Score
4.3.1 Legal Framework and Practice	N/A

4.3.1 Legal Framework and Practice

4.3.1.057: Are the rules governing deposits into the fund defined by legislation?

Score: A B C

References:

N/A

4.3.1.058: In practice, does the government follow the rules governing deposits to the natural resource fund?

Score: A B C D E

References:

N/A

4.3.1.059: Are the rules governing withdrawal or disbursement from the fund defined by legislation?

Score: A B C

References:

N/A

4.3.1.060: In practice, does the government follow the rules governing withdrawal or spending from natural resource fund?

Score: A B C D E

References:

N/A

4.3.1.061: Are withdrawals or spending from the fund reserves approved by the legislature as part of the budget process?

Score: A B C

References:

N/A

4.3.1.062: Are officials of the natural resource fund required to disclose information about their financial interest in any oil, gas or mining projects?

Score: A B **C**

References:

N/A

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Indicator	Score
5.1.1	Context
5.1.1	Context

5.1.1.063: Do central governments transfer resources to subnational authorities based on extraction of mineral resources?

Score: A B C D E

Comments:

Il est difficile de répondre à cette question dans la mesure où ni le gouvernement central ni les gouvernements provinciaux ne publient les informations en rapport avec le transfert des recettes.

References:

www.ministeredubudget.cd
www.katanga.cd

Peer Review Comments:

There is contradiction between what is established in the Mining Code and the Constitution. The Mining Code says money from resource companies will be collected by Kinshasa and transferred to the provinces, while the (more recent) constitution stipulates the opposite (collected by Province and transferred to Central authorities). Le Code minier congolais prévoit que 40% de la redevance minière doit aller aux Provinces.

5.1.1.064: Are conditions imposed on subnational government as part of revenue sharing regime?

Score: A B C

Comments:

Il faut noter que le gouvernement central continue à supporter les charges des provinces telles que la construction des ponts, la paie des agents de la fonction publique etc. Cette situation est à la base de la difficulté de l'application de la retenue des recettes à la source.

References:

Budget de l'Etat pour l'exercice 2011: Investissement sur transfert aux provinces et ETD
(www.ministeredubudget.cd)

Peer Review Comments:

La Constitution de la RDC et le Code Minier disposent que les Provinces ont droit à 40% de la redevance minière, prélevée à la source. Ces conditions ne sont pas respectées par le Gouvernement car ce dernier continue à prendre en charge les dépenses liées aux investissements des Provinces et les salaires des agents de l'Etat des Provinces par exemple.

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Indicator		Score
5.2.1	Disclosure	33 

5.2.1 Disclosure

5.2.1.065: Are the rules for revenue transfers from central to sub national governments published, including the formula(s) for revenue sharing?

Score: A B C

References:

www.ministeredubudget.cd

Peer Review Comments:

Les règles sont publiées via la constitution et le code minier qui est publié sur le site du ministère des mines.

5.2.1.066: Does the central government publish comprehensive information on transfers of resource related revenues to sub-national governments?

Score: A B C D E

References:

www.ministeredubudget.cd

5.2.1.067: Are the reports containing information on transfers of resource related revenues to sub-national governments understandable?

Score: A B C D E

Comments:

La rubrique contenant le transfert des recettes liées aux ressources n'existe pas dans le document consacré à l'exécution du budget. Seule la rubrique "transfert aux provinces et aux ETD pour leur fonctionnement" est reprise dans ce document.

References:

www.ministeredubudget.cd

5.2.1.068: How often does the central government publish information on transfers of resource related revenues to sub-national governments?

Score: A B C D E

References:

www.ministeredubudget.cd

5.2.1.069: Do sub-national governments publish information on transfers received from central governments?

Score: A (B) C

Comments:

Le budget de la province du Katanga ne ressort pas ce transfert des recettes


References:

www.katanga.cd

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Indicator	Score
5.3.1 Legal Framework and Practice	50 

5.3.1 Legal Framework and Practice

5.3.1.070: Are arrangements (including formulas and responsible institutions) for resource revenue sharing between central and sub-national governments defined by legislation?

Score: A B C

Comments:

La disposition prise pour le partage des recettes ainsi que les formules sont définies dans la constitution en son article 175. En pratique c'est la Banque Centrale du Congo qui se charge du partage des recettes entre le gouvernement central et les gouvernements provinciaux.

References:

Article 175 de la constitution de la RD Congo

Peer Review Comments:

La Banque Centrale du Congo ne fait que le transfert des fonds aux provinces après décision du Ministre des Finances. C'est le Ministre qui décide du montant à transférer et la Banque Centrale ne fait qu'exécuter la décision du Ministre des Finances

5.3.1.071: In practice, does the government follow the rules established by resource revenue sharing legislation?

Score: A B C D E

Comments:

Le gouvernement ne suit pas les règles établies par la loi sur le partage des recettes en ce sens que la loi prévoit que les recettes dues aux provinces doivent être retenues à la source mais le gouvernement central récupère toutes les recettes.

References:

Lire sur <http://www.digitalcongo.net/article/58898>: Retrocession de 40% des recettes aux provinces : gouverneurs et députés provinciaux prêts à traduire le gouvernement central en justice.

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Democratic Republic of the Congo - RWI Index Questionnaire

Context

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Indicator	Score
1.1	Context
1.1	Context

1.1.001: Does the country have a clear legal definition of ownership of mineral resources?

Score: A B C D E

Comments:

In the DRC, « The state has sovereignty over the soil and sub-soil (...) ». Conditions granting individuals and companies rights on the use of land are established by the Mining Code of July 11th, 2002, the nascent Agricultural Code and the law n°73-021 of July 20th 1973 on land ownership.

References:

Art. 9 of the DRC Constitution.

1.1.002: Who has authority to grant hydrocarbon and mineral rights or licenses?

Score: A B C D E

Comments:

Article 12 of the Mining Code established the Mines Registry, an administrative and technical entity under the Ministry of Mines that plays a central role in handling license requests. It scrutinizes requests and prepares them for final approval by the Minister of Mines. It also checks whether all conditions are fulfilled to uphold the validity of the titles.

The oil sector is managed by the 'Ministère des Hydrocarbures', the Oil Ministry. Contrarily to the mining sector, there is no all encompassing Oil Code (although one is being drafted), and investors sign conventions which vary from one to the next. The President does not play any role in granting mining titles, but oil conventions require presidential approval ('ordonnance présidentielle'), and so does the creation of some specific types of companies.

References:

Art. 10 of the Mining Code (competence of the Ministry of Mines) and Art 12 (Mines Registry).

Peer Review Comments:

En se basant sur la loi minière, le chercheur dit vrai mais en pratique, c'est la Présidence qui accorde l'agrément lorsqu'une société est en joint venture et si c'est une SARL (à noter que peu d'entreprises ont ce statut en RDC, la plupart sont des SPRL). Les grandes entreprises minières de la RDC ayant un statut SARL et qui sont en joint venture avec la GECAMINES doivent obtenir l'ordonnance du Président de la RDC. C'est ici où le Président de la République intervient politiquement pour gérer les sites miniers.

Pour les sociétés pétrolières, tout contrat de partage de production doit avoir l'aval de la Présidence de la République, selon l'ordonnance Loi 81-013 du 2 Avril 1981. L'article 79 de cette ordonnance stipule:

Art. 79. — Les droits miniers pour hydrocarbures sont accordés par convention.

Les conventions pétrolières sont initiées, au nom du Conseil exécutif par le département de l'Énergie.

Elles sont signées pour la partie Zaïre par le commissaire d'État à l'Énergie (Ministère de l'Énergie actuellement) et le commissaire d'État aux Finances et Budget (Ministre des Finances et du Budget actuellement).

Au cas où les conventions prévoient la participation de l'État dans la société pétrolière qui sollicite les avantages de la présente législation, le commissaire d'État au Portefeuille participera également à leur signature. Les conventions pétrolières, quoique dûment signées par les parties, n'ont d'effet qu'après avoir été approuvées par une ordonnance du président de la République.

1.1.003: What licensing practices does the government commonly follow?

Score: A B C D E

Comments:

The Mining Code grants exploration licenses on a first-come, first-served basis. Only titleholders of an exploration license can transform their title into an exploitation permit.

The first-come, first-served rule should be nuanced in practice as a result of the 2002 Mining Code. Before the entry into force of the Code, state-owned companies had a quasi-monopoly over title ownership. The transitional regime allowed these SOEs to convert the old titles into new licenses under the MC. As a consequence, most of the titles covering well-known deposits remained in hands of the SOEs and were not available on a first-come, first-served basis (although it is as such an application of that principle, since SOEs came first). In subsequent years, SOEs signed a variety of contracts with private investors without application of the procedures of art. 33 and 34 (Mines Registry), following instead relatively opaque procedures to grant access to DRC's resources.

References:

Article 34 of the Mining Code.

Peer Review Comments:

Toutefois, l'article 32 du Code Minier de la RDC stipule aussi qu'il y a une autre procédure d'appel d'offre que le Ministère de Mines doit suivre dans la procédure d'octroi des titres miniers. L'appel d'offre ouvert et restreint peut être utilisé mais cela doit être confirmé par le Président de la République. A noter que cet article s'applique dans des circonstances exceptionnelles, si l'intérêt public le requiert. Il n'a été suivi qu'une seule fois en pratique.

1.1.004: What is the fiscal system for mineral resources?

Score: A B C D E

Comments:

All titleholders in the mining sector are subject to a uniform set of royalties and taxes which are collected by three different tax collecting agencies. When a private investor has obtained its title through a contract with a SOE (see Q3), additional revenue flows may go to the SOE, but this does not affect the compulsory tax regime of the Mining Code.

In the oil sector, investors sign production sharing agreements with the state and/or the SOEs.

References:

Title IX of the Mining Code (tax regime).

1.1.005: What agency has authority to regulate the hydrocarbon and mineral sector?**Score:** A B C D E**Comments:**

Art. 7 and following sum up the powers of the Mines Ministry when regulating the mining sector. Art. 7.10 stipulates that the Mines Ministry is in charge of applying the Mining Code and its executive regulations. Moreover, it has authority over the different administrative bodies supervising the mining sector, such as the provincial mining divisions (Divisions provinciales des mines – while established in the provinces, they respond to the national ministry), the mines registry, the geology department and the mines department.

It should be noted that the mines sector and the oil sector are separate and fall under two distinct ministries, each with their own rules and administrative bodies.

References:

Article 7 and following of the Mining Code.

Peer Review Comments:

Comme je l'ai expliqué dans les lignes plus haut, la Présidence de la République joue aussi un rôle important dans la régulation du secteur minier en RDC. Lorsque l'entreprise est une SARL, la Présidence doit donner son aval.

Pour le secteur pétrolier, tout contrat de partage de production est confirmé par la Présidence de la République. Le Ministère des Hydrocarbures joue le rôle administratif et technique. Mais, c'est la Présidence de la République qui confirme tout contrat de partage de production.

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Disclosure

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Indicator	Score
1.2.006 Information on licensing process	84 
1.2 Contract transparency	67 
1.2.008 Environmental and social impact assessments	25 
1.2 Access to information and legislation	67 

1.2.006 Information on licensing process

1.2.006.a: What information does the government publish on the licensing process before negotiations?

Score: A B C D E

Comments:

Procedures to obtain licenses are clearly spelled out in the Mining Code and Mining Regulation. There are two main procedures. When a concession is barely known, an investor can acquire a research permit and later convert it into an exploitation permit once exploitation seems economically feasible. These procedures are run by the Mines Registry and approved by the Mines Minister. In theory, this procedure is transparent, although some of the publicity rules are not applied in practice, such as the requirement to post pending license requests on the Mines Registry's website (see art. 28 of the Mining Regulation and the relevant page on the Mines Registry's website:

<http://www.flexicadastre.com/DotNetNukeDRC/Procedures/Formulaires/tabid/131/language/fr-FR/Default.aspx>). It is also unclear to which extent the other forms that should ensure sound business practices are carefully monitored and accessible to the public (e.g. environmental impact studies). When a deposit is well known, the Mining Code offers the possibility to hold bidding rounds. Here again, procedures are clearly spelled out, although this procedure is rarely used.

It should be noted that a third procedure is possible, although much less formal and less regulated. As noted, many investors obtain access to the sector through contracts with SOEs which have valuable titles. These contracting procedures are less clear and often happen in opaque circumstances. After two of the SOEs signed new contracts in secrecy, some of the ministers even opposed the contracts arguing the relevant legal provisions (proscribing a tender process) had not been taken into account.

References:

Art. 28, 43-66, Mining Regulation.

1.2.006.b: What information does the government publish on the licensing process after negotiations?

Score: A B C D E

Comments:

Since October 2011, the Mines Registry publishes a monthly updated map reflecting the valid mining permits across the country, along with the name of the title holder, the date the permit was granted, its expected expiration date as well as the list of minerals covered by the permit. In September 2011, it has also published lists of all valid permits per type of permit (research, exploitation, tailings, etc) and per title holder. Since all terms governing the title are fixed in the mining code (tax regime, environmental obligations, duration of the permit, etc), the government does not publish this type of information for each project. The public can technically consult many of the documents filed at the Mines Registry, although some exceptions exist (e.g. feasibility studies) and some of the files are difficult to access in practice.

That said, since many of the investors sign contracts with the SOEs generating an additional set of (financial) obligations, these contracts should also be public. The Ministry of Mines has officially committed to systematic publication, but its implementation remains very partial.

References:

Mines Ministry's website (<http://mines-rdc.cd/fr/>); Mines Registry's website (<http://www.cami.cd>)

1.2 Contract transparency

1.2.007: Are all contracts, agreements or negotiated terms for exploration and production, regardless of the way they are granted, disclosed to the public?

Score: A B C D E

Comments:

Since May 2011, a ministerial decree stipulates that all mining, oil and forestry contracts should be public. It covers all contracts (preliminary agreements, agreements, sales of shares, etc), whether signed by the state or by the SOEs, to be published within 60 days of their approval. It is uncertain whether the decree applies retroactively.

The decree explicitly applies to contracts between investors and SOEs. Some of the SOEs have transferred their contracts for publication (e.g. SOKIMO, Sodimico), but the most important of all SOEs, Gécamines, for a long time refused to transfer its contracts for publication. It is only recently (June 2012) that a wide range of its contracts were disclosed, upon significant pressure from the international financial institutions. Today, the publication rate for mining contracts can probably be estimated around 90%.

The decree also applies to oil and forestry conventions. Many of the oil conventions have been published, although some of the most important ones took the longest to disclose. 14 forestry contracts were published in July 2012.

Improvement in transparency is mainly the result of the adoption of a so-called Economic Governance Matrix, a list of cost-effective measures aimed at improving transparency and accountability in natural resource management, adopted by DRC.

References:

http://mines-rdc.cd/fr/index.php?option=com_content&view=article&id=176&Itemid=127

http://mines-rdc.cd/fr/index.php?option=com_content&view=article&id=175&Itemid=126

<http://www.gecamines.cd/>

www.congomines.org

Peer Review Comments:

C'est le decret 011/26 du 20 Mai 2011.

1.2.008 Environmental and social impact assessments

1.2.008.a: Does legislation require that mining, gas and oil development projects prepare an environmental impact assessment prior to the award of any mineral rights or project implementation?Score: A B C**Comments:**

All applications for exploitation permits require an extensive environmental impact study. Exploration permits do not require such study, although an environmental 'rehabilitation and mitigation plan' has to be submitted before starting any exploration works (art. 50 of the Mining Code).

References:

Art. 69 of the Mining Code, Art. 407 of the Mining Regulation (environmental impact study); Art. 50 of the Mining Code (Rehabilitation and Mitigation Plan).

1.2.008.b: Are environmental impact assessments for oil, gas and mining projects published by the authority in charge of regulating the sector and is there a consultation process?Score: A B C D E**Comments:**

The Mining law has gaps as to the accessibility of environmental impact studies. Companies and state entities point at one another when activists ask for access to such documents. However, law n°11/009 of July 9th 2011 on fundamental principles of environmental protection has addressed this gap. Art. 8 of the Law provides that 'any person has the right to access available, complete and exact information about the environment, including information relating to dangerous substances and activities and about measures taken to prevent, treat or eliminate them. The State, the province and the local entity makes available to the public any documentation relating to the environment. The modalities governing access to information as well as remedies to address unjustified access to information are set by decree of the council of Ministers.' Here again, a gap exists between law and practice. This has not led neither the government nor companies to publish existing environmental impact studies.

References:

Article 451 of the Mining Regulation.

Peer Review Comments:

Comme l'a dit le chercheur, les compagnies doivent élaborer les études d'impact environnemental et les soumettre à la Division de l'environnement minier du Ministère des Mines et au Ministère de l'environnement. Les autorités ne publient jamais ces études environnementales.

Le problème réside dans le suivi et évaluation après que la société a eu l'accord des autorités. Le suivi et évaluation du respect de l'étude d'impact environnemental fait défaut. C'est lorsque les ONG dénoncent la pollution ou le non respect de l'étude de l'impact environnemental que les autorités se réveillent. Parfois, les agents du Ministère des Mines et Environnement manquent de moyens financiers pour aller faire des inspections. Ce sont parfois les entreprises minières qui prennent en charge le séjour de ces agents du Ministère des Mines et de l'Environnement lorsqu'ils descendent sur terrain pour le contrôle ou autre mission d'inspection du respect de l'EIE.

1.2.008.c: Does legislation require that mining, gas and oil development projects prepare a social impact assessment?Score: A B C**Comments:**

The mining legislation seems to consider local communities as part of the natural environment, and environmental impact studies are supposed to deal with impacts on the (human) environment. The concept of social impacts does not appear as such in the law. The one existing document relating

directly to the communities, the sustainable development plan, does not deal explicitly with negative impacts.

The above mentioned law on environmental protection (11/009) addresses some of these gaps. Its article 21 provides that 'any development, infrastructure or exploitation project relating to industrial, commercial, agricultural, forestry, mining, telecommunication activities or any other activity having a potential impact on the environment is subject to a preliminary, duly approved environmental and social impact study and its relating management plan.' The content and procedure for this study will be spelled out in a ministerial decree. The entry into force of these provisions will only happen after one or two years (or even more), depending on the type of project (articles 85, 86 and 87).

References:

Article 69g, Article 126 Annex IX, Mining Regulation; art. 21, Law on Environmental Protection.

1.2.008.d: Are social impact assessments for oil, gas and mining projects published and is there a consultation process?

Score: A B C D E

Comments:

The Mining Code does not provide for a social impact study, but the new environmental protection law does. (see citation at question 8c).

References:

Article 21, Environmental Protection Law (n°11/009 of July 9, 2011).

1.2 Access to information and legislation

1.2.009: Does the government publish detailed mineral/hydrocarbon resource legislation?

Score: A B C D E

Comments:

The answer for the mining sector is positive. The oil sector is less clear; legislation is available but it does not form a neatly delineated, comprehensive Code.

References:

Sectoral laws are available on the Ministry of Mines website: http://mines-rdc.cd/fr/index.php?option=com_content&view=article&id=76. Additional laws and norms are available at : <http://www.congomines.org/fr/category/type-document/lois-normes/>

Peer Review Comments:

Oui, le Code Minier est publié mais le code du Petrole est encours d'examen au Parlement. Il y a des chances que ce code soit publié aussi au courant de cette législature.
Les sociétés pétrolières sont régulées par la loi de 1981 comme je l'ai expliqué plus haut.

1.2.010: This country has adopted a rule or legislation that provides for disclosure of information in the oil, gas and mineral sectors.

Score: A B C D E

Comments:

There is no general FOIA law either for the sector or for a broader scope. Existing rules only cover very

specific documents (e.g. contracts) and modalities are not always clear. When the onus of publication is vague, stakeholders often prefer not to publish (e.g. environmental impact studies).

References:

Décret n°011/26 du 20 mai 2011 portant obligation de publier tout contrat ayant trait aux ressources naturelles ; various provisions in the Mining Code, above-mentioned environmental protection law, permanent instruction n°1228 CAB/MIN/FINANCES/CTR/MUL/KAN/2011 of the Ministry of Finance (19 March 2011) on the publication of revenues from Mining, Oil and Forestry, etc (unpublished).
<http://www.congomines.org/wp-content/uploads/2011/10/GOVRDC-2011-DecretPublicationContrats.pdf>
http://www.acidhcd.org/index.php?option=com_content&view=article&id=456:communiquede-pressend-2-2011&catid=46:communiquede-press&Itemid=65

Peer Review Comments:


Il n'y a pas de loi sur l'accès à l'information en RDC en général. Mais il y a ce fameux décret de mai 2011 sur l'obligation de publier tout contrat ayant trait aux ressources naturelles

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Legal Framework and Practices

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Indicator	Score
1.3 Legal Framework and Practices	67 

1.3 Legal Framework and Practices

1.3.011: The authority in charge of awarding licenses or contracts for mineral or hydrocarbon production is independent of the state owned company (SOC) or other operating companies.

Score: A B C

Comments:

The Mines Registry in charge of granting and upholding mining titles is independent from SOEs. But as the latter have kept important titles during the transitional regime, and since the Mines Registry has apparently transformed many of its exploration permits into exploitation permits without rigorously examining whether all conditions were fulfilled, SOEs have and may continue to function as a parallel (informal) Mines Registry.

References:

Art.12, Mining Code (re Mines Registry).

1.3.012: Is the licensing process intended to be open and competitive to all qualified companies?

Score: A B C D E

Comments:

The procedures in the mining code (licensing, tender) are competitive. Contracting with SOEs has been much less so, and this has been a dominant way of accessing (known) resources over the past decade.

References:

Articles 33 and 34 of the Mining Code.

1.3.013: Does the licensing process or legislation impose limits to discretionary powers of the authority in charge of awarding licenses or contracts?

Score: A B C D E

Comments:

For licenses, there is no discretion – the procedure and content are provided by the Mining Code. For contracting with SOEs, there are few rules, and there is even discussion as to whether the existing ones (Law on the disengagement of the state in state-owned companies) is applicable (see in particular art. 7). There are a lot of differences between the different Joint Venture contracts involving SOEs.

References:

Mining Code, Contracts.

1.3.014: Does the legislative branch have any oversight role regarding contracts and licenses in the oil, gas and mining sector?

Score: A B C D E

Comments:

The Mining Code grants no role to Parliament in the award of contracts. This is partly because the Code already sets the main body of law, including the tax regime. The only convention escaping the Mining Code since its adoption in 2002 is the China barter agreement, the tax exemptions of which should have been submitted to Parliamentary approval. This has not happened in practice.

References:

Chapter II, Mining Code.

1.3.015: Is there a due process to appeal licensing decisions?

Score: A B C

Comments:

The Mining Code provides for administrative remedies, as well as legal remedies and arbitration in case administrative procedures fail.

References:

Article 46 and 313, Mining Code.

1.3.016: Is there a legal or regulatory requirement to disclose all beneficial ownership in oil, gas and mining companies or projects?

Score: A B C

Comments:

The Government does not require disclosure of beneficial ownership in companies or projects. The constitution does require that the president as well as ministers disclose their assets and those of their family members, but such lists are not available in practice. The IMF has such requirements as a conditionality benchmark for its credit facility but does not scrutinize its application in practice.

References:

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Context

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Indicator	Score
2.1 Context	100 

2.1 Context

2.1.017: Does the government receive in-kind payments instead of financial payments from resource companies?

Score: A B C

Comments:

The Government does not receive any payments in-kind, except under the terms of the Sino-Congolese barter agreement (minerals for infrastructure). Under that convention, a consortium of Chinese companies commits to financing a set of infrastructure projects (worth 3 billion USD) and a major investment in mining (worth 3 billion USD as well). The mineral production will help reimburse both the mining investment and the infrastructure works. The project will only pay taxes after the investments have been reimbursed.

In the oil sector, investments are based on production sharing agreements, which provide for the sharing of cash oil between the investor and the state.

References:

Convention de collaboration entre la République Démocratique du Congo et la société Sinohydro Corporation relative au développement d'un projet minier et d'un projet d'infrastructure en République Démocratique du Congo.

Peer Review Comments:

Des paiements en nature ont en effet été effectués par des compagnies chinoises. A noter aussi que des paiements en cash ont été effectués dans les cas suivants:

Il y a des fonds payés par Sandro Resources Ltd et Garetto Holding Ltd, deux sociétés de Dan Getler, de l'ordre de 30 millions de dollars pour l'achat de 30% des parts de la SODIMICO dans la joint venture SODEFOR, le 28 Mars 2011.

Il y a aussi des fonds provenant de la vente de 20% des parts que détenait la GECAMINES dans Mutanda Mining (MUMI) à Actif Rowny Ltd et de 25% des parts que détenait la GECAMINES dans KANSUKI Sprl à BIKO Invest, deux sociétés appartenant à Dan Getler.

Les prix de ces ventes restent inconnus jusqu'à présent mais selon le Parlementaire Britannique Eric Joyce, les prix payés par Dan Getler pour acquérir les parts dans les deux sociétés est de 137 millions des dollars. Mutanda Mining et Kansuki Sprl ont une valeur de plus 1 milliards des dollars, selon le député britannique Eric Joyce

Il y a aussi des fonds que CAPRIKAT et FOXWHELP ont payés au Gouvernement de la RDC pour acquérir le bloc 1 et 2, blocs disputés jusqu'à aujourd'hui entre la RDC et TULLOW OIL

Les deux sociétés ont versé 6 millions de dollars au Gouvernement de la RDC via un compte à la Rawbank après que le Président de la République ait publié une ordonnance attribuant les deux blocs

aux deux sociétés citées ci haut.

2.1.018: If the government or state owned companies sell physical commodities (oil, gas or minerals) from in-kind payments or own production, is there information about how these commodities are marketed?

Score: A B C D **E**

Comments:

/

References:

/

Peer Review Comments:

La Gecamines vend ces minerais à l'extérieur. Mais suite à la saisine des fonds chinois par des fonds voutours, la GECAMINES vend ces minerais à partir de ses usines au Katanga (Lubumbashi, Likasi et Kolwezi). Le prix reste inconnu ainsi que les acheteurs. Sur le site de la GECAMINES, www.gecamines.cd, celle ci a produit fin mars 2012, 4 731 Tonnes/cuivre, 157 tonnes/cobalt et 2 781 tonnes/zinc.

Pour le petrole, PERENCO et ses associés produisent et vendent du petrole extrait en Onshore mais la quantité et le prix nous sont inconnu. Il y a pas d'informations sur ce sujet. C'est un sujet tabou pour le public.

2.1.019: What authority actually collects payments from resource companies?

Score: **A** B C D E

Comments:

Three different tax collecting agencies collect all taxes provided in the Mining Code. They all fall under the authority of the Ministry of Finance. That said, some additional revenue flows, which find their legal basis in the joint venture contracts between private investors and SOEs, are collected by the SOEs (signing bonus, contractual royalties, etc). Other taxes still have been created at the provincial level (despite rules in the Mining Code prohibiting this practice). These are collected at the provincial level.

References:

Mining Code, Contracts.

Peer Review Comments:

Au Ministère des Finances, il y a 3 services qui collectent les taxes et redevances dans le secteur extractif.

1. La Douane ou Direction Générale des Douanes et Accises, DGDA en sigle
2. Direction Générale des Impôts, DGI en sigle
3. Direction Générale des recettes administratives et domaniales, DGRAD en sigle

Au niveau Provinciale, il y a deux services dont:
















1. Direction Provinciale des mobilisations des recettes, ces directions ont été mises en place sous l'initiative de la Banque Mondiale
2. Le Gouvernorat

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Indicator		Score
2.2A.020	Does the Ministry of Finance publish periodical information on revenue generation?	0 
2.2A.020.j	Does the Ministry of Finance publish information on disaggregated revenue streams?	29 
2.2A	Quality of reports	67 
2.2B.020	Does the Ministry of the extractive sector publish information on revenue generation?	26 
2.2B.020.j	Does the Ministry of the extractive sector publish information on disaggregated revenue streams?	14 
2.2B	Quality of reports	67 
2.2C.020	Does a Regulatory Agency publish information on revenue generation?	7 
2.2C.020.j	Does a Regulatory Agency publish information on disaggregated revenue streams?	0 
2.2C	Quality of reports	N/A
2.2D.020	Does the Central Bank publish information on revenue generation?	22 
2.2D.020.j	Does the Central Bank publish information on disaggregated revenue streams?	0 
2.2D	Quality of reports	67 
2.2E.020	Does any other government agency or entity publish information on revenue generation?	15 
2.2E.020.j	Does any other government agency or entity publish information on disaggregated revenue streams?	67 
2.2E	Quality of reports	50 
2.2	Public sector balance	0 

2.2A.020 Does the Ministry of Finance publish periodical information on revenue generation?

2.2A.020.a: Reserves

Score: A B C **(D)** E

Comments:

The Ministry of Finance has published quarterly reports reflecting revenues from Mining, Oil and Forestry since the first quarter of 2011. While most revenue flows are reflected, some important ones, especially those flowing to (or through) the SOEs and to the Provinces, are omitted.

References:

<http://www.minfinrdc.com/>

Peer Review Comments:

Le Ministère des Finances publie maintenant les recettes provenant du secteur extractif sauf certains paiements qui ne sont pas disponibles; par exemple, les Pas des portes ou les bonus de signature des contrats de partage de production.

2.2A.020.b: Production volumes

Score: A B C **(D)** E

References:

<http://www.minfinrdc.com/>

2.2A.020.c: Information on prices

Score: A B C **(D)** E

References:

<http://www.minfinrdc.com/>

Peer Review Comments:

Il y pas d'informations sur le prix

2.2A.020.d: Value of resource exports

Score: A B C **(D)** E

References:

<http://www.minfinrdc.com/>

Peer Review Comments:

Pas d'informations

2.2A.020.e: Estimates of investment in exploration and development

Score: A B C **(D)** E

References:

<http://www.minfinrdc.com/>

2.2A.020.f: Production costs

Score: A B C **(D)** E

References:

<http://www.minfinrdc.com/>

2.2A.020.g: Names of companies operating in country

Score: A B C D E

References:

<http://www.minfinrdc.com/>

Peer Review Comments:

Les noms des compagnies minières opérant dans le pays sont connues et se trouvent sur le site du Ministère des Mines et Cadastre Minier. www.cami.cd ou www.mines-rdc.cd

2.2A.020.h: Production data by company and/or block

Score: A B C D E

References:

<http://www.minfinrdc.com/>

Peer Review Comments:

Pas d'information sur ce sujet

2.2A.020.i: Cost of subsidies or social investments paid by mineral revenue

Score: A B C D E

References:

<http://www.minfinrdc.com/>

2.2A.020.j Does the Ministry of Finance publish information on disaggregated revenue streams?

2.2A.020.j1: Production streams value

Score: A B C D E

References:

<http://www.minfinrdc.com/>

2.2A.020.j2: Government s share in PSC

Score: A B C D E

References:

There are no PSC.

Peer Review Comments:

A noter acependant qu'après renégociation des contrats miniers, toutes les actions de l'Etat dans les joint ventures ont été publiées. Ca se trouve sur le site web du Ministère des Mines et du Ministère des

Finances.

2.2A.020.j3: Royalties

Score: A B C D E

References:

<http://www.minfinrdc.com/>

2.2A.020.j4: Special taxes (e.g. withholding taxes, excise taxes, excess earning taxes, charged on extractive companies)

Score: A B C D E

References:

<http://www.minfinrdc.com/>

2.2A.020.j5: Dividends

Score: A B C D E

References:

<http://www.minfinrdc.com/>

2.2A.020.j6: Bonuses

Score: A B C D E

References:

<http://www.minfinrdc.com/>

Peer Review Comments:

Les Informations sur les bonus des signatures de contrat de partage pétrolier sont publiés mais pas par nom compagnie ou société. La publication de bonus devrait être faite par nom de compagnie.

2.2A.020.j7: License fees

Score: A B C D E

References:

<http://www.minfinrdc.com/>

2.2A.020.j8: Acreage fees

Score: A B C D E

References:

<http://www.minfinrdc.com/>

2.2A.020.j9: Other (Explain in 'comments' box.)Score: A B C D E**References:**<http://www.minfinrdc.com/>

2.2A Quality of reports

2.2A.021: Are periodical reports containing information on revenue generation published by the Ministry of Finance understandable?Score: A B C D E**Comments:**

The reports are lists of figures without explanation of source, concepts, or variations. They are only useful to those who already have solid knowledge of the tax system.

References:

Quarterly publications.

2.2A.022: How often are the periodical reports containing information on revenue generation published by the Ministry of Finance?Score: A B C D E**Comments:**

Since early 2011, the publication has been regular (each quarter) and timely (5 to 15 days after the end of the quarter).

References:

'Instruction permanente' n°1228 CAB/MIN/FINANCES/CTR/MUL/KAN/2011 on revenues from natural resources.

2.2B.020 Does the Ministry of the extractive sector publish information on revenue generation?

2.2B.020.a: ReservesScore: A B C D E**Comments:**

Note : we have used the section "Ministry of the Extractive Sector" to reflect practices from the Ministry of Mines and its implementing administration (Division des Mines). We have used the section "Regulatory Agency" to describe practices from the Mines Registry, although this is not really a regulatory agency as such (which does not exist in DRC). Also note that our research has focused on the most industrialized province, Katanga, and that information may be less readily available in other provinces.

The Mines Administration publishes monthly statistics by company on the following items :

- Production volumes in tons, disaggregated per type of ore, based on export and local sales declarations from companies. Example: Company X exported 1000t of copper cathode of 99%, Company Y exported 25000t of copper-cobalt concentrate between 4 and 15%.

- Royalties owed on these export and local sale volumes. Note that these figures only show what the companies owe, not what is actually paid and collected.

The statistics do not show the actual value of production – although companies do declare this in the export forms. In the past, the Mines Administration also included the names of companies in its annual report, but the list tends to be incomplete and could not be obtained for the past two years.

The Ministry of Mines does not publish data on revenue collection; this is done by the Ministry of Finance.

References:

Mines Administration of Katanga Province, DRC, "Statistiques des notes de débit relatives à la redevance minière", January – December 2011
Ministry of Mines, Production statistiques, 1st Semester 2011, www.mines-rdc.cd

2.2B.020.b: Production volumes

Score: A B C D E

References:

Mines Administration of Katanga Province, DRC, "Statistiques des notes de débit relatives à la redevance minière", January – December 2011
Ministry of Mines, Production statistiques, 1st Semester 2011, www.mines-rdc.cd

2.2B.020.c: Information on prices

Score: A B C D E

References:

Mines Administration of Katanga Province, DRC, "Statistiques des notes de débit relatives à la redevance minière", January – December 2011
Ministry of Mines, Production statistiques, 1st Semester 2011, www.mines-rdc.cd

Peer Review Comments:

Pas d'informations publiées sur ce sujet

2.2B.020.d: Value of resource exports

Score: A B C D E

References:

Mines Administration of Katanga Province, DRC, "Statistiques des notes de débit relatives à la redevance minière", January – December 2011
Ministry of Mines, Production statistiques, 1st Semester 2011, www.mines-rdc.cd

2.2B.020.e: Estimates of investment in exploration and development

Score: A B C D E

References:

Mines Administration of Katanga Province, DRC, "Statistiques des notes de débit relatives à la redevance minière", January – December 2011
Ministry of Mines, Production statistiques, 1st Semester 2011, www.mines-rdc.cd

2.2B.020.f: Production costs**Score:** A B C D E**References:**

Mines Administration of Katanga Province, DRC, "Statistiques des notes de débit relatives à la redevance minière", January – December 2011

Ministry of Mines, Production statistiques, 1st Semester 2011, www.mines-rdc.cd

2.2B.020.g: Names of companies operating in country**Score:** A B C D E**References:**

Mines Administration of Katanga Province, DRC, "Statistiques des notes de débit relatives à la redevance minière", January – December 2011

Ministry of Mines, Production statistiques, 1st Semester 2011, www.mines-rdc.cd

Peer Review Comments:

Les noms des société opérant dans le pays est publié sur le site du Cadastre minier mais le secteur pétrolier n'est pas publié. Le site de CAMI est www.cami.cd

2.2B.020.h: Production data by company and/or block**Score:** A B C D E**References:**

Mines Administration of Katanga Province, DRC, "Statistiques des notes de débit relatives à la redevance minière", January – December 2011

Ministry of Mines, Production statistiques, 1st Semester 2011, www.mines-rdc.cd

Peer Review Comments:

Il y a pas d'information sur la production par bloc pétrolier. Les information sur la production minière sont publiés mais pas pour toutes les entreprises minières.

2.2B.020.i: Cost of subsidies or social investments paid by mineral revenue**Score:** A B C D E**References:**

Mines Administration of Katanga Province, DRC, "Statistiques des notes de débit relatives à la redevance minière", January – December 2011

Ministry of Mines, Production statistiques, 1st Semester 2011, www.mines-rdc.cd

2.2B.020.j Does the Ministry of the extractive sector publish information on disaggregated revenue streams?

2.2B.020.j1: Production streams value

Score: A B C D E

References:

Mines Administration of Katanga Province, DRC, "Statistiques des notes de débit relatives à la redevance minière", January – December 2011
Ministry of Mines, Production statistiques, 1st Semester 2011, www.mines-rdc.cd

2.2B.020.j2: Government s share in PSC

Score: A B C D E

References:

Mines Administration of Katanga Province, DRC, "Statistiques des notes de débit relatives à la redevance minière", January – December 2011
Ministry of Mines, Production statistiques, 1st Semester 2011, www.mines-rdc.cd

2.2B.020.j3: Royalties

Score: A B C D E

References:

Mines Administration of Katanga Province, DRC, "Statistiques des notes de débit relatives à la redevance minière", January – December 2011
Ministry of Mines, Production statistiques, 1st Semester 2011, www.mines-rdc.cd

2.2B.020.j4: Special taxes (e.g. withholding taxes, excise taxes, excess earning taxes, charged on extractive companies)

Score: A B C D E

References:

Mines Administration of Katanga Province, DRC, "Statistiques des notes de débit relatives à la redevance minière", January – December 2011
Ministry of Mines, Production statistiques, 1st Semester 2011, www.mines-rdc.cd

2.2B.020.j5: Dividends

Score: A B C D E

References:

Mines Administration of Katanga Province, DRC, "Statistiques des notes de débit relatives à la redevance minière", January – December 2011
Ministry of Mines, Production statistiques, 1st Semester 2011, www.mines-rdc.cd

2.2B.020.j6: Bonuses

Score: A B C D E

References:

Mines Administration of Katanga Province, DRC, "Statistiques des notes de débit relatives à la redevance minière", January – December 2011

Ministry of Mines, Production statistiques, 1st Semester 2011, www.mines-rdc.cd

2.2B.020.j7: License fees

Score: A B C D E

References:

Mines Administration of Katanga Province, DRC, "Statistiques des notes de débit relatives à la redevance minière", January – December 2011
Ministry of Mines, Production statistiques, 1st Semester 2011, www.mines-rdc.cd

2.2B.020.j8: Acreage fees

Score: A B C D E

References:

Mines Administration of Katanga Province, DRC, "Statistiques des notes de débit relatives à la redevance minière", January – December 2011
Ministry of Mines, Production statistiques, 1st Semester 2011, www.mines-rdc.cd

2.2B.020.j9: Other (Explain in 'comments' box.)

Score: A B C D E

References:

Mines Administration of Katanga Province, DRC, "Statistiques des notes de débit relatives à la redevance minière", January – December 2011
Ministry of Mines, Production statistiques, 1st Semester 2011, www.mines-rdc.cd

2.2B Quality of reports

2.2B.021: Are periodical reports containing information on revenue generation published by the Ministry of the extractive sector understandable?

Score: A B C D E

Comments:

As said, the Administration only published production volumes under broad categories, and the results of its royalty calculations. It does not detail any other revenue stream (surface rents, profit tax, signing bonuses, dividends, etc). It also does not detail the specific value of the export streams, nor how the royalties are calculated, which trends appear, which current problems are encountered, which penalties apply, etc. The annual report is mainly descriptive, with very little analysis of fluctuations in production or revenue streams.

References:

Mines Administration of Katanga Province, DRC, "Statistiques des notes de débit relatives à la redevance minière", January – December 2011
Ministry of Mines, Production statistiques, 1st Semester 2011, www.mines-rdc.cd

2.2B.022: How often are the periodical reports containing information on revenue generation

published by the Ministry of the extractive sector?**Score:** (A) B C D E**Comments:**

The statistics described above are published every month, and are complemented in February-March by an annual report. These are drafted at the provincial level and then sent to the national Ministry. The reports are easier to obtain at the provincial level than at the national one.

References:

Mines Administration of Katanga Province, DRC, "Statistiques des notes de débit relatives à la redevance minière", January – December 2011.

2.2C.020 Does a Regulatory Agency publish information on revenue generation?

2.2C.020.a: Reserves**Score:** A B C (D) E**Comments:**

The Mines Registry is in charge of granting mining rights and controlling the formal requirements of permit validity. In September 2011 it published the lists of all research and exploitation permit holders, as well as the map with concessions across the DRC (see 'names of companies operating in the country').

One of the conditions for the validity of a permit is the payment of surface rents, which the Mines Registry is supposed to collect according to the 2002 Mining Code. Although the competence to collect surface rents has since been transferred to one of the tax collecting agencies, it still receives detailed data about which title holders paid their rents. According to the Mining Regulation, the Mines Registry should publish these data online, but the website pages where they are to appear are blank.

References:

Article 41, Mining Regulation

<http://www.flexicadastre.com/DotNetNukeDRC/MineralTitleReports/tabid/101/language/fr-FR/Default.aspx>

2.2C.020.b: Production volumes**Score:** A B C (D) E**References:**

Article 41, Mining Regulation

<http://www.flexicadastre.com/DotNetNukeDRC/MineralTitleReports/tabid/101/language/fr-FR/Default.aspx>

2.2C.020.c: Information on prices**Score:** A B C (D) E**References:**

Article 41, Mining Regulation

<http://www.flexicadastre.com/DotNetNukeDRC/MineralTitleReports/tabid/101/language/fr-FR/Default.aspx>

2.2C.020.d: Value of resource exports

Score: A B C **(D)** E

References:

Article 41, Mining Regulation

<http://www.flexicadastre.com/DotNetNukeDRC/MineralTitleReports/tabid/101/language/fr-FR/Default.aspx>

2.2C.020.e: Estimates of investment in exploration and development

Score: A B C **(D)** E

References:

Article 41, Mining Regulation

<http://www.flexicadastre.com/DotNetNukeDRC/MineralTitleReports/tabid/101/language/fr-FR/Default.aspx>

2.2C.020.f: Production costs

Score: A B C **(D)** E

References:

Article 41, Mining Regulation

<http://www.flexicadastre.com/DotNetNukeDRC/MineralTitleReports/tabid/101/language/fr-FR/Default.aspx>

2.2C.020.g: Names of companies operating in country

Score: A **(B)** C D E

References:

Article 41, Mining Regulation

<http://www.flexicadastre.com/DotNetNukeDRC/MineralTitleReports/tabid/101/language/fr-FR/Default.aspx>

Peer Review Comments:

La liste des sociétés opérant au pays est publié. Voir www.cami.cd ou www.mines-rdc.cd

2.2C.020.h: Production data by company and/or block

Score: A B C **(D)** E

References:

Article 41, Mining Regulation

<http://www.flexicadastre.com/DotNetNukeDRC/MineralTitleReports/tabid/101/language/fr-FR/Default.aspx>

2.2C.020.i: Cost of subsidies or social investments paid by mineral revenue

Score: A B C D E

References:

Article 41, Mining Regulation

<http://www.flexicadastre.com/DotNetNukeDRC/MineralTitleReports/tabid/101/language/fr-FR/Default.aspx>

2.2C.020.j Does a Regulatory Agency publish information on disaggregated revenue streams?

2.2C.020.j1: Production streams value

Score: A B C D E

References:

Article 41, Mining Regulation

<http://www.flexicadastre.com/DotNetNukeDRC/MineralTitleReports/tabid/101/language/fr-FR/Default.aspx>

2.2C.020.j2: Government s share in PSC

Score: A B C D E

References:

No PSC.

2.2C.020.j3: Royalties

Score: A B C D E

References:

Article 41, Mining Regulation

<http://www.flexicadastre.com/DotNetNukeDRC/MineralTitleReports/tabid/101/language/fr-FR/Default.aspx>

2.2C.020.j4: Special taxes (e.g. withholding taxes, excise taxes, excess earning taxes, charged on extractive companies)

Score: A B C D E

References:

Article 41, Mining Regulation

<http://www.flexicadastre.com/DotNetNukeDRC/MineralTitleReports/tabid/101/language/fr-FR/Default.aspx>

2.2C.020.j5: Dividends

Score: A B C D E

References:

Article 41, Mining Regulation

<http://www.flexicadastre.com/DotNetNukeDRC/MineralTitleReports/tabid/101/language/fr-FR/Default.aspx>

2.2C.020.j6: Bonuses

Score: A B C D E

References:

Article 41, Mining Regulation

<http://www.flexicadastre.com/DotNetNukeDRC/MineralTitleReports/tabid/101/language/fr-FR/Default.aspx>

2.2C.020.j7: License fees

Score: A B C D E

References:

Article 41, Mining Regulation

<http://www.flexicadastre.com/DotNetNukeDRC/MineralTitleReports/tabid/101/language/fr-FR/Default.aspx>

2.2C.020.j8: Acreage fees

Score: A B C D E

References:

Article 41, Mining Regulation

<http://www.flexicadastre.com/DotNetNukeDRC/MineralTitleReports/tabid/101/language/fr-FR/Default.aspx>

2.2C.020.j9: Other (Explain in 'comments' box.)

Score: A B C D E

References:

Article 41, Mining Regulation

<http://www.flexicadastre.com/DotNetNukeDRC/MineralTitleReports/tabid/101/language/fr-FR/Default.aspx>

2.2C Quality of reports

2.2C.021: Are periodical reports containing information on revenue generation published by the Regulatory Agency understandable?

Score: A B C D E

Comments:

Answer B : The list of companies, which is the only thing published by the Mining Registry (CAMI) does not have a narrative but is understandable.

Answer D : The Mines Registry does not publish information on revenue generation.

References:

www.cami.cd

2.2C.022: How often are the periodical reports containing information on revenue generation published by the Regulatory Agency?

Score: A B C D E

Comments:

The list of companies was published twice (September 2011, update February 2012) but the map is updated every month. The Mines Registry does not publish information on revenue generation.

References:

www.cami.cd

2.2D.020 Does the Central Bank publish information on revenue generation?

2.2D.020.a: Reserves

Score: A B C D E

Comments:

The Central Bank only provides information on the production volumes (per type of resource) and the price. It does not detail any of the other elements.

References:

Weekly statistical reports from the Central Bank (available at www.bcc.cd) example : Condensé hebdomadaire d'informations statistiques N°52/2011, 30 Décembre 2011

2.2D.020.b: Production volumes

Score: A B C D E

References:

Weekly statistical reports from the Central Bank (available at www.bcc.cd) example : Condensé hebdomadaire d'informations statistiques N°52/2011, 30 Décembre 2011

2.2D.020.c: Information on prices

Score: A B C D E

References:

Weekly statistical reports from the Central Bank (available at www.bcc.cd) example : Condensé hebdomadaire d'informations statistiques N°52/2011, 30 Décembre 2011

2.2D.020.d: Value of resource exports

Score: A B C D E

References:

Weekly statistical reports from the Central Bank (available at www.bcc.cd) example : Condensé hebdomadaire d'informations statistiques N°52/2011, 30 Décembre 2011

2.2D.020.e: Estimates of investment in exploration and development

Score: A B C D E

References:

Weekly statistical reports from the Central Bank (available at www.bcc.cd) example : Condensé hebdomadaire d'informations statistiques N°52/2011, 30 Décembre 2011

2.2D.020.f: Production costs

Score: A B C D E

References:

Weekly statistical reports from the Central Bank (available at www.bcc.cd) example : Condensé hebdomadaire d'informations statistiques N°52/2011, 30 Décembre 2011

2.2D.020.g: Names of companies operating in country

Score: A B C D E

References:

Weekly statistical reports from the Central Bank (available at www.bcc.cd) example : Condensé hebdomadaire d'informations statistiques N°52/2011, 30 Décembre 2011

2.2D.020.h: Production data by company and/or block

Score: A B C D E

References:

Weekly statistical reports from the Central Bank (available at www.bcc.cd) example : Condensé hebdomadaire d'informations statistiques N°52/2011, 30 Décembre 2011

2.2D.020.i: Cost of subsidies or social investments paid by mineral revenue

Score: A B C D E

References:

Weekly statistical reports from the Central Bank (available at www.bcc.cd) example : Condensé hebdomadaire d'informations statistiques N°52/2011, 30 Décembre 2011

2.2D.020.j Does the Central Bank publish information on disaggregated revenue streams?

2.2D.020.j1: Production streams value

Score: A B C D E

References:

Weekly statistical reports from the Central Bank (available at www.bcc.cd) example : Condensé hebdomadaire d'informations statistiques N°52/2011, 30 Décembre 2011

2.2D.020.j2: Government s share in PSC

Score: A B C D E

References:

No PSC.

2.2D.020.j3: Royalties

Score: A B C D E

References:

Weekly statistical reports from the Central Bank (available at www.bcc.cd) example : Condensé hebdomadaire d'informations statistiques N°52/2011, 30 Décembre 2011

2.2D.020.j4: Special taxes (e.g. withholding taxes, excise taxes, excess earning taxes, charged on extractive companies)

Score: A B C D E

References:

Weekly statistical reports from the Central Bank (available at www.bcc.cd) example : Condensé hebdomadaire d'informations statistiques N°52/2011, 30 Décembre 2011

2.2D.020.j5: Dividends

Score: A B C D E

References:

Weekly statistical reports from the Central Bank (available at www.bcc.cd) example : Condensé hebdomadaire d'informations statistiques N°52/2011, 30 Décembre 2011

2.2D.020.j6: Bonuses

Score: A B C D E

References:

Weekly statistical reports from the Central Bank (available at www.bcc.cd) example : Condensé hebdomadaire d'informations statistiques N°52/2011, 30 Décembre 2011

2.2D.020.j7: License fees**Score:** A B C D E**References:**

Weekly statistical reports from the Central Bank (available at www.bcc.cd) example : Condensé hebdomadaire d'informations statistiques N°52/2011, 30 Décembre 2011

2.2D.020.j8: Acreage fees**Score:** A B C D E**References:**

Weekly statistical reports from the Central Bank (available at www.bcc.cd) example : Condensé hebdomadaire d'informations statistiques N°52/2011, 30 Décembre 2011

2.2D.020.j9: Other (Explain in 'comments' box.)**Score:** A B C D E**References:**

Weekly statistical reports from the Central Bank (available at www.bcc.cd) example : Condensé hebdomadaire d'informations statistiques N°52/2011, 30 Décembre 2011

2.2D Quality of reports

2.2D.021: Are periodical reports containing information on revenue generation published by the Central Bank understandable?**Score:** A B C D E**Comments:**

The BCC only gives raw statistics on production and price. For production figures, the report gives a historical overview (since 1990), and gives the cumulated production until a few months preceding publication (e.g. production from January through October 2010 for the publication in December 2010), along with the production at the same time of the year for the preceding year (e.g. production from January through October 2009). This allows for comparison with the precedent year. In December 2011 for instance, the BCC published a copper production of 469707 tons in 2010 and 462 187 tons in 2011.

References:

Weekly statistical reports from the Central Bank (available at www.bcc.cd) example : Condensé hebdomadaire d'informations statistiques N°52/2011, 30 Décembre 2011

2.2D.022: How often are the periodical reports containing information on revenue generation published by the Central Bank?**Score:** A B C D E**Comments:**

Statistical data on production have been included in weekly publications since 2005 (although they are

not published strictly every week, they do appear regularly on the BCC website). Information about prices is less regular; detailed information has been provided by the BCC department of economic analyses in December 2009 and the second semester of 2010 (covering evolutions in 2010).

References:

See previous source

2.2E.020 Does any other government agency or entity publish information on revenue generation?

2.2E.020.a: Reserves

Score: A B C **(D)** E

Comments:

This section assesses what information is published in EITI reports.

The DRC published two reports covering the following years: 2007, 2008 and 2009. The latest report was published in February 2012 - it covers the hydrocarbons sector and the mining sector separately. Information on reserves is not published.

References:

http://eiti.org/files/DRC%202008-2009%20EITI%20Report_0.pdf

<http://eiti.org/countries/reports/compare/2295%2C2294%2C1996>

Peer Review Comments:

Il y a le Comité Technique de réforme, CTR du Ministère des Finances, qui rassemble toutes les données sur les revenus générés par les ressources naturelles. Cette publication fait suite à l'engagement du Gouvernement Congolais envers les bailleurs des fonds (Banque Mondiale et FMI) à publier trimestriellement. Cette publication se trouve sur le site du Ministère des Finances www.minfinrdc.com

2.2E.020.b: Production volumes

Score: A **(B)** C D E

Comments:

See p.4 of the 2012 mining report.

Information is provided for years 2007, 2008 and 2009, not after (therefore justifying a B score rather than an A).

References:

http://eiti.org/files/DRC%202008-2009%20EITI%20Report_0.pdf

<http://eiti.org/countries/reports/compare/2295%2C2294%2C1996>

2.2E.020.c: Information on prices

Score: A B C **(D)** E

Comments:

No information on prices.

References:

http://eiti.org/files/DRC%202008-2009%20EITI%20Report_0.pdf

<http://eiti.org/countries/reports/compare/2295%2C2294%2C1996>

2.2E.020.d: Value of resource exports

Score: A B C **(D)** E

Comments:

Not published.

References:

http://eiti.org/files/DRC%202008-2009%20EITI%20Report_0.pdf

<http://eiti.org/countries/reports/compare/2295%2C2294%2C1996>

2.2E.020.e: Estimates of investment in exploration and development

Score: A B C **(D)** E

Comments:

Not published

References:

http://eiti.org/files/DRC%202008-2009%20EITI%20Report_0.pdf

<http://eiti.org/countries/reports/compare/2295%2C2294%2C1996>

2.2E.020.f: Production costs

Score: A B C **(D)** E

Comments:

Not published.

References:

http://eiti.org/files/DRC%202008-2009%20EITI%20Report_0.pdf

<http://eiti.org/countries/reports/compare/2295%2C2294%2C1996>

2.2E.020.g: Names of companies operating in country

Score: A **(B)** C D E

Comments:

See p.22 of the 2012 report where mining companies which participate in EITI are listed.

References:

http://eiti.org/files/DRC%202008-2009%20EITI%20Report_0.pdf

<http://eiti.org/countries/reports/compare/2295%2C2294%2C1996>

2.2E.020.h: Production data by company and/or block

Score: A B C **(D)** E

Comments:

Revenues are disaggregated by revenue streams, not by company.

References:

http://eiti.org/files/DRC%202008-2009%20EITI%20Report_0.pdf

<http://eiti.org/countries/reports/compare/2295%2C2294%2C1996>

2.2E.020.i: Cost of subsidies or social investments paid by mineral revenue

Score: A B C **(D)** E

Comments:

Not published.

References:

http://eiti.org/files/DRC%202008-2009%20EITI%20Report_0.pdf

<http://eiti.org/countries/reports/compare/2295%2C2294%2C1996>

2.2E.020.j Does any other government agency or entity publish information on disaggregated revenue streams?

2.2E.020.j1: Production streams value

Score: A B C D **(E)**

Comments:

Revenues are disaggregated by revenue streams.

References:

http://eiti.org/files/DRC%202008-2009%20EITI%20Report_0.pdf

<http://eiti.org/countries/reports/compare/2295%2C2294%2C1996>

2.2E.020.j2: Government s share in PSC

Score: A B C D **(E)**

Comments:

No PSC in the mining sector.

References:

N/A

2.2E.020.j3: Royalties

Score: A B C D E

Comments:

'Pas de porte verses a l'Etat', equivalent to royalties are published (cf. p.8 of the 2012 report for instance)

References:

http://eiti.org/files/DRC%202008-2009%20EITI%20Report_0.pdf

<http://eiti.org/countries/reports/compare/2295%2C2294%2C1996>

2.2E.020.j4: Special taxes (e.g. withholding taxes, excise taxes, excess earning taxes, charged on extractive companies)

Score: A B C D E

Comments:

L'impôt sur les benefices et profits et l'impôt special forfaitaire sont detailles dans les rapports ITIE.

References:

http://eiti.org/files/DRC%202008-2009%20EITI%20Report_0.pdf

<http://eiti.org/countries/reports/compare/2295%2C2294%2C1996>

2.2E.020.j5: Dividends

Score: A B C D E

References:

http://eiti.org/files/DRC%202008-2009%20EITI%20Report_0.pdf

<http://eiti.org/countries/reports/compare/2295%2C2294%2C1996>

2.2E.020.j6: Bonuses

Score: A B C D E

Comments:

Pas de bonus.

References:

N/A

2.2E.020.j7: License fees

Score: A B C D E

Comments:

See 'Droits superficiaires annuels'.

References:

http://eiti.org/files/DRC%202008-2009%20EITI%20Report_0.pdf

<http://eiti.org/countries/reports/compare/2295%2C2294%2C1996>

2.2E.020.j8: Acreage fees

Score: A B C D E

Comments:

See license fees.

References:

N/A

2.2E.020.j9: Other (Explain in 'comments' box.)

Score: A B C D E

Comments:

EITI reports also publish information on droits d'entree, droits de sortie, taxes renumeratories, taxes renumeratories provinciales.

References:

http://eiti.org/files/DRC%202008-2009%20EITI%20Report_0.pdf

<http://eiti.org/countries/reports/compare/2295%2C2294%2C1996>

2.2E Quality of reports

2.2E.021: Are periodical reports containing information on revenue generation published by any other government agency or entity understandable?

Score: A B C D E

References:

http://eiti.org/files/DRC%202008-2009%20EITI%20Report_0.pdf

<http://eiti.org/countries/reports/compare/2295%2C2294%2C1996>

2.2E.022: How often are the periodical reports containing information on revenue generation published by the any other governmental agency or entity?

Score: A B C D E

Comments:

The latest EITI report was published in 2012. However, the information covered only goes up to 2009.

References:

http://eiti.org/files/DRC%202008-2009%20EITI%20Report_0.pdf

<http://eiti.org/countries/reports/compare/2295%2C2294%2C1996>

2.2 Public sector balance

2.2.023: Does the government include the SOC financial balance (its assets and liabilities) within the public sector balance or overall balance of general government in reports to the legislature?

Score: A B C **(D)** E

References:

The budget only reflects some of the exceptional revenues which are expected from SOC operations, namely the signing bonuses. It does not include a full view of the SOC financial balance, and the relationship between SOC finances and the national budget are particularly unclear (see below, section on SOCs).

2.2.024: Does the government include projections of transactions, accounts of actual spending by the natural resource funds, and their assets and liabilities, within the public sector balance or overall balance of general government in reports to the legislature?

Score: A B C D **(E)**

Comments:

There is no special fund for revenues from extractive industries. There should be a special fund for revenues from state-owned companies, in which revenues from asset sales should be collected, but the fund has not been set up and SOEs have argued in 2011 that they need that money for internal purposes (response of SOE Gécamines to the IMF question about asset sales in 2011).

Until recently, it was impossible to determine which revenues came from mining, except for exceptional payments such as signing bonuses and the sale of mining assets. (Oil revenues are separated out). This hinders efficient parliamentary or public monitoring. The quarterly publications from the ministry of finance have partially addressed this gap since 2011, but the official budget still does not provide for similar disaggregation.

References:

Synthesis of revenues per entity – Budget 2011

http://www.ministredubudget.cd/budget2011/promulgue_2011/recettes/recettes_tab_synthese.pdf

Art. 25 Law on the disengagement of the state from state-owned companies (law n 08/008 of July 7th 2008)

2.2.025: Does the government provide information on the non resource fiscal balance in its budget proposal?

Score: A **(B)** C

References:


The budget does not detail which taxes come from natural resources and which ones don't.

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Legal Framework and Practices

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Indicator	Score
2.3 Legal Framework and Practices	62 

2.3 Legal Framework and Practices

2.3.026: In the legal framework, what government agencies have authority to collect taxes and payments from resource companies?

Score: A B C D E

Comments:

Answer is between A and C.

- a. Three different tax agencies from the Ministry of Finance collect taxes and royalties (DGI, DGRAD, DGDA).
- c. The SOEs collect revenues as stipulated in their contracts with private investors.

References:

Law 005/008 on tax modalities (« Loi n°005/008 du 31 mars 2005 modifiant et complétant la loi n°04/015 du 16 juillet 2004 fixant la nomenclature des actes générateurs des recettes administratives, judiciaires et domaniales et de participation ainsi que leur modalité de perception »).

EITI DRC reports 2007, 2008-2009.

2.3.027: Are all resource related revenues, including those collected by state owned companies, regulatory agencies, ministries, special funds or by the tax authority placed in the national treasury?

Score: A B C D E

Comments:

All Mining Code taxes are placed in the national treasury. There is a considerable tax gap however, as illustrated by the Parliamentary control report covering mining revenues in 2009 (more than \$400m missing, which is more than three times the total of mining revenues declared in the EITI 2009 report). 40% of all taxes should be transferred to the province which generated the revenues. According to provincial tax agencies, only 10% is effectively transferred.

Contractual revenue flows go to the SOEs, but ad hoc rules exist as to whether these revenues should be kept by the SOEs or transferred to the national treasury. After the DRC contract renegotiation for instance, the Ministry of Mines instructed to transfer 50% of the signing bonuses and royalties to the treasury. Proceeds from asset sales should also go to the treasury (special fund for SOEs). In practice, revenue flows going to (or through) SOEs are very difficult to trace.

References:

Parliamentary Economic and Finance Committee, 2009 Report, March 2010 (Rapport relatif au contrôle de l'exécution de la loi de finances de l'exercice 2009), p.3

Introduction to the draft budget for 2011 (exposé général) available at www.ministeredubudget.cd

2.3.028: Are government officials with a role in the oversight of the oil, gas or mining sector required to disclose information about their financial interest in any extractive activity or projects?

Score: A B C

Comments:

Art. 99 of the Constitution requires that the President and members of the government declare a list of their assets and those of their families both at the start and the end of their mandate to the Constitutional Court. The Constitutional Court and tax agencies have to investigate the list. It is uncertain whether this procedure actually takes place, and the list is not disclosed to the general public.

Art. 27 of the mining code prohibits government agents, civil servants, military, police or state security staff to carry out mining activities. However, this does not include a participation in the share capital of mining companies. No law requires disclosure of such participations. The World Bank reported that several officials have shares in mining companies and said it would be appropriate to publish a list of all such interests. The IMF has a similar requirement among its conditionality benchmarks. Neither require this in practice.

References:

Art. 99 Constitution, Art. 27 Mining Code
Banque Mondiale, République Démocratique du Congo, la bonne gouvernance dans le secteur minier comme facteur de croissance, Département des Hydrocarbures, des Industries Extractives et des Produits Chimiques, Région d'Afrique, rapport 2008, p.32.

2.3.029: Is there independent external validation of internal controls of agencies in charge of receiving payments from resource companies with the objective of providing assurances of integrity of public funds and sound financial management?

Score: A B C D E

Comments:

Art. 180 sets up the 'cour des comptes', a body controlling state finances, provincial and local budgets and finances of state agencies. The constitution provides for the publication of the CdC annual report in the government gazette (Journal Officiel). In practice, the public cannot access the report and cannot evaluate the CdC's work or independence.

References:

Art. 180 DRC Constitution (Cour des Comptes, national audit office)

2.3.030: Does the national audit office (or similar independent organization) report regularly to the legislature on its findings, including an objective analysis of agencies in charge of managing resource revenues, and are these reports published?

Score: A B C D E

Comments:

In 2010, an independent study has shown that the DRC is the least transparent African country in terms of budget transparency. (see link above). The study also noted however that DRC's score increased compared to 2008 as the country now published in-year reports and a citizens' budget in addition to the adopted budget.

References:

http://www.lephareonline.net/lephare/index.php?option=com_content&view=article&id=2753:budget-de-letat-la-rdc-est-le-pays-africain-le-moins-transparent&catid=54:rokstories&Itemid=107

Peer Review Comments:

Des rapports sur la gestion des provinces ont été publiés par la Cour des Comptes. Ces rapports ne sont pas disponibles en ligne cependant. Le PNUD a financé la multiplication de ces rapports en plusieurs exemplaires. La LICOCO en a distribué a plusieurs organisations de la Société Civile, les églises et d'autres institutions.

2.3.031: Does a Parliamentary committee scrutinize reports on resource related revenues and, if so, when does this occur?

Score: A B C **(D)** E

Comments:

Parliament does not scrutinize EI finances on a regular basis, although the quarterly publication of revenues could change this. Some ad hoc studies and control has taken place over the past few years, e.g. the 2005-2006 Lutundula study on war financing (including substantial sections on revenues from mining contracts), a plenary debate on the China barter agreement in 2008, short reports from the Eco-Fin commission on bad governance in public finances, a 2009 Senate study on mining revenues (rapport Mutanda), a Q&A session on the PSAs between the DRC and Tullow Oil.

References:

Parliamentary Economic and Finance Committee, 2009 Report, March 2010 (Rapport relatif au contrôle de l'exécution de la loi de finances de l'exercice 2009
SARW, Le pétrole de Moanda au Bas- Congo qui en bénéficie ?, Novembre 2008, p24

2.3.032: Is this country an EITI candidate or compliant country?

Score: A **(B)** C D E

Comments:

DRC has been accepted as a EITI candidate in 2008 and published EITI reports covering FY 2007, 2008 and 2009. Cependant, le Conseil d'administration a convenu qu'en raison du non-respect de la date butoir du 12 juin 2011 concernant les mesures correctives, la République démocratique du Congo n'était pas éligible pour un examen du Secrétariat. Conformément aux dispositions transitoires de la version 2011 des Règles de l'ITIE, le Conseil d'administration a convenu de renouveler le statut de pays Candidat à l'ITIE de la République démocratique du Congo pour une période de 18 mois (soit d'ici le 1er mars 2013), période à la fin de laquelle la République démocratique du Congo devra avoir achevé une Validation ITIE conforme à la version 2011 des Règles de l'ITIE.

References:

<http://eiti.org/fr/republique-democratique-du-congo>

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Indicator	Score
3.1.1	Context 67 

3.1.1 Context

3.1.1.033: Is there a state-owned company? If so, what is its role in the extractive sector?

Score: A B C D E

References:

The DRC has several state-owned companies, both in the mining sector and the oil sector. The SOCs used to have a monopoly for a specific region (e.g. Gécamines' monopoly for copper and cobalt operations in most of the Katanga copperbelt, Okimo's monopoly for gold exploitation in parts of Oriental Province). By the early 1990s, the SOCs were de facto bankrupt and unable to sustain the sometimes remarkable production levels of the 1970s and '80s. After a decade of mining production and revenue decline, the DRC adopted a new Mining Code in 2002 to liberalize access to mineral resources and attract foreign investment. Exploration permits are since granted on a first come first serve basis.

However, the transitional regime of the Mining Code allowed for conversion of old mining concessions into new Mining Code permits. SOCs consequently converted their most valuable titles.

Foreign investors, mostly interested in the most promising deposits, have since partnered up with the SOCs in joint ventures. The SOC brings in the title and geological knowledge (and sometimes old infrastructure), the private investor promises technical expertise and to find the financial resources to bring the project (back) into production. As a result, most of the currently operational projects are joint ventures between foreign investors (majority stakeholder) and one of the SOCs (minority). The production of these partnerships has boomed, whereas the production of the SOCs alone, currently at 1/20th of its historical peak, has remained stagnant over the past 10 years.

3.1.1.034: How is government ownership of resource companies structured in this country?

Score: A B C D E

Comments:

The answers are A and C.

Answer A : The resource companies are almost all controlled and entirely owned by the government (the only exception to date is the Minière de Bakwanga (diamond exploitation in Kasai Province), 20% of which belongs to a private investor). Their legal status has recently changed from Public Enterprise to Commercial Company (Société par Actions à Responsabilité Limitée or SARL, the equivalent of a Limited Liability Company), so that the company almost entirely falls under common corporate law. Regardless, ownership is still 100% in hands of the state, although the bylaws anticipate a potential (partial) privatization.

Answer C : as explained at question 33, the SOCs (100% state-owned) have signed a multitude of partnership contracts with private investors, so that the State owns equity in many projects through its SOCs.

In addition, the Mining Code grants a 5% free carry interest to the state for all title holders who own an

exploitation licence (art. 71 d) of the 2002 Mining Code). When the title holder is a joint venture between a private investor and an SOE, the 5% state share is included in the SOE's share, although it is unclear how a partial privatization of the SOE will affect this de facto practice.

References:

Loi n. 07/008 du 7 Juillet 2008 portant dispositions générales relatives à la Transformation des Entreprises Publiques ; Bylaws of the Générale des Carrières et des Mines, Journal Officiel du 29 Décembre 2010

3.1.1.035: Is there more than one state-owned company (SOC) operating in the extractive sector?

Score: A B C

Comments:

There are several SOC's, each with their own geographical focus :

- Générale des Carrières et des Mines (Gécamines, the most important of mining SOC's) – copper and cobalt (and zinc), Katanga copper belt, entire belt North-West of provincial capital Lubumbashi
- Société de Développement Industriel et Minier du Congo (Sodimico – copper and cobalt, Katanga copperbelt, South-East of Lubumbashi)
- Société Commerciale la Minière de Kisenge Manganèse (SCMK-Mn), magnesium, West Katanga
- Société Minière de Kilo-Moto (SOKIMO), gold, Oriental Province

There are also a number of 'Entreprises à économie mixte' (public-private partnerships), including :

- Minière de Bakwanga (MIBA), diamonds, Kasai Province (20% privately held)

References:

www.mines-rdc.cd

Peer Review Comments:

Il y a aussi COHYDRO pour le pétrole à Muanda

3.1.1.036: Do the roles and responsibilities of the SOC include provision of subsidies or social expenditures (quasi-fiscal activities)?

Score: A B C

Comments:

The SOC's used to have a crucial social role. They were referred to as "a state within the state", providing anything from schooling and health care to housing, sport facilities and food supplies. With the decline of the SOC's at the end of the 1980s, these activities collapsed, causing widespread social hardship. The social activities continue until today although at a much smaller scale, and the largest of the SOC's (Gécamines) has announced in its 2011 business plan that it wants to size them down to a bare minimum.






References:

GECAMINES website

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Indicator		Score	
3.2.1	Comprehensive reports	33	
3.2.2.038	<u>Does the SOC publish information on revenue generation?</u>	26	
3.2.3.038.j	Disaggregated Revenue Streams	0	
3.2.4	Quality of reports	0	
3.2.5.043	Audited reports	50	

3.2.1 Comprehensive reports

3.2.1.037: Does the SOC publish comprehensive reports with information about its operations and subsidiaries?

Score: A B C D E

Comments:

Information about SOC's operations and subsidiaries is hard to obtain and is often only released upon pressure from institutional partners and/or activists. Gécamines for instance has published a list of its joint ventures in September 2011, upon pressure from the IMF. It doesn't publish its production data, but these can quite easily be obtained through the Central Bank statistics (they include a separate line for SOC production) and the Mines Administration. Information about revenue streams from private investors to the SOC's, and from SOC's to the state budget, are almost impossible to obtain (see question below).

References:

Answer is between C and D

3.2.2.038 Does the SOC publish information on revenue generation?

3.2.2.038.a: Reserves

Score: A B C D E

Comments:

Production figures can be obtained through the Central Bank statistics, and through press statements from Gécamines.

Gécamines' website has lists of its partnerships and their production as well as its wholly owned deposits, but much of the information is dated (early 2010). As said, revenue information is very difficult to come by. While some initiatives at the national level have improved overall transparency in the mining sector, these publications have not adequately dealt with the revenue flows from investors to SOC's and from SOC's to the national budget. The quarterly publications from the Ministry of Finance on natural resource revenues for instance (see questions 20-22) and the latest EITI reports have omitted

significant revenue flows (e.g. the contractual royalty payments Gécamines is entitled to, the proceeds from Gécamines' asset sales, etc). The financial statements from the SOCs are also very difficult to obtain, and hardly subject to parliamentary control. The only source of information to turn to for revenue generation by SOCs is the state budget. Over the past three years, the budget has included important revenue expectations in the form of exceptional signing bonuses as a result of the contract revisitation and renegotiation process. However, the budget execution shows that only 10% of those exceptional revenues actually made it to the budget.

References:

www.gecamines.cd, national budget 2009, 2010, 2011 (Central Bank website)

3.2.2.038.b: Production volumes

Score: A B C D E

References:

www.gecamines.cd, national budget 2009, 2010, 2011 (Central Bank website)

3.2.2.038.c: Information on prices

Score: A B C D E

References:

www.gecamines.cd, national budget 2009, 2010, 2011 (Central Bank website)

3.2.2.038.d: Value of resource exports

Score: A B C D E

References:

www.gecamines.cd, national budget 2009, 2010, 2011 (Central Bank website)

3.2.2.038.e: Estimates of investment in exploration and development

Score: A B C D E

References:

www.gecamines.cd, national budget 2009, 2010, 2011 (Central Bank website)

3.2.2.038.f: Production costs

Score: A B C D E

References:

www.gecamines.cd, national budget 2009, 2010, 2011 (Central Bank website)

3.2.2.038.g: Names of companies operating in country

Score: A B C D E

References:

www.gecamines.cd, national budget 2009, 2010, 2011 (Central Bank website)

3.2.2.038.h: Production data by company and/or block

Score: A B C D E

References:

www.gecamines.cd, national budget 2009, 2010, 2011 (Central Bank website)

3.2.2.038.i: Quasi fiscal activities

Score: A B C D E

References:

www.gecamines.cd, national budget 2009, 2010, 2011 (Central Bank website)

3.2.3.038.j Disaggregated Revenue Streams

3.2.3.038.j1: Production streams value

Score: A B C D E

References:

www.gecamines.cd, national budget 2009, 2010, 2011 (Central Bank website)

3.2.3.038.j2: Government s share in PSC

Score: A B C D E

References:

www.gecamines.cd, national budget 2009, 2010, 2011 (Central Bank website)

3.2.3.038.j3: Royalties

Score: A B C D E

References:

www.gecamines.cd, national budget 2009, 2010, 2011 (Central Bank website)

3.2.3.038.j4: Special taxes

Score: A B C D E

References:

www.gecamines.cd, national budget 2009, 2010, 2011 (Central Bank website)

3.2.3.038.j5: Dividends**Score:** A B C D E**References:**

www.gecamines.cd, national budget 2009, 2010, 2011 (Central Bank website)

3.2.3.038.j6: Bonuses**Score:** A B C D E**References:**

www.gecamines.cd, national budget 2009, 2010, 2011 (Central Bank website)

3.2.3.038.j7: License fees**Score:** A B C D E**References:**

www.gecamines.cd, national budget 2009, 2010, 2011 (Central Bank website)

3.2.3.038.j8: Acreage fees**Score:** A B C D E**References:**

www.gecamines.cd, national budget 2009, 2010, 2011 (Central Bank website)

3.2.3.038.j9: Other (Describe below)**Score:** A B C D E**References:**

www.gecamines.cd, national budget 2009, 2010, 2011 (Central Bank website)

3.2.4 Quality of reports**3.2.4.039: Are the reports published by the state owned company understandable?****Score:** A B C D E**Comments:**

Reports are not published by the Gecamines itself.

References:

www.gecamines.cd, national budget 2009, 2010, 2011 (Central Bank website)

Peer Review Comments:

La GECAMINES publie un rapport annuel financier audités mais ce rapport reste entre les mains des

autorités politiques (Ministère des Mines et du Portefeuille) et des personnes ayant des liens avec les autorités de la Gécamines. Certaines ONG du Katanga reçoivent ces rapports via les délégués syndicaux de la GECAMINES.

Sans toutefois rejetés ce que le chercheur a écrit, en gros, les rapports de la GECAMINES ne sont pas connus du grand public.

A part la GECAMINES, les autres entreprises d'Etat ne publient jamais leur rapport d'activités ou financier audités.

3.2.4.040: How often are the reports or statistical databases containing information on revenue generation published by the state owned company?

Score: A B C **(D)** E

References:

www.gecamines.cd, national budget 2009, 2010, 2011 (Central Bank website)

3.2.4.041: If the SOC is involved with quasi fiscal activities, does it publish information about them?

Score: A **(B)** C

References:

SOCs are historically known for their quasi-fiscal activities – One of the three departments making up Gécamines for instance was entirely devoted to the social component – but recent records of current practices and in-kind contributions to the population are unavailable. Their website does not have a detailed inventory of social activities.

3.2.4.042: If there are joint ventures, does the SOC (or government) publish information on its share of costs and revenues deriving from its equity participation in joint ventures?

Score: A **(B)** C

Comments:

Note : part of the answer to this question falls under the question about contracts, since the latter detail what the SOC's input to the JV is and what it is entitled to. The current comment only deals with how it works out in practice.

Share of costs – Usually, the SOC does not share in the capital expenditure of joint venture projects (many contracts even explicitly stipulate that there should not be any financial burden on the SOC). Most of the JVs are financed through either third party loans (exceptional) or shareholder advances from the private investor (the rule). The SOC's main input is the mining title, geological knowledge and participation in the joint venture's management through board and executive decisions. There is no public knowledge about the specific assets Gécamines brings to the joint ventures (that is, the public will for instance only know which deposit the JV covers, but not its value, the value of the infrastructure, etc). It also does not have access to the list of SOC mandate holders in the JVs. It is also unknown whether and how Gécamines shares in operational costs.

Share of revenues – since many currently applicable JV contracts are not disclosed, it is difficult to know what the SOCs are entitled to in each project. In general however, the SOCs are entitled to dividends, signing bonuses, royalty payments (distinct from the Mining Code royalties), and sometimes lease payments. As said, information about these revenues is almost inexistent.

References:

N/A

3.2.5.043 Audited reports

3.2.5.043.a: Is the SOC subject to annual audits conducted by an independent external auditor to ensure that the financial statements represent the financial position and performance of the company?

Score: A B C D E

Comments:

There have been several audits and assessments of the SOCs financial statements in the past, but generally, the auditors could not obtain sufficient information to approve the annual result.

References:

/

Peer Review Comments:

La GECAMINES a toujours eu un auditeur externe depuis très longtemps. C'est PRICEWATERHOUSECOOPER qui a toujours été l'auditeur externe de la GECAMINES. Les auditeurs ont toujours eu des informations sur la vie de l'entreprise. Il y aussi eu des auditeurs que les partenaires créanciers de la GECAMINES ont utilisés pour appuyer financièrement la GECAMINES. Toutefois, il faut noter que le rapport d'audit de la GECAMINES n'est pas public et il a toujours reflété la santé financière de l'entreprise.
La MIBA avait aussi un auditeur externe mais le rapport d'audit n'est pas public.

3.2.5.043.b: Are SOC audited reports published?

Score: A B C D E


References:

The audits are not accessible to the general public, although some of the historical assessments by law and accounting firms (especially those from 2002-2006) have been leaked.

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Indicator	Score
3.3.1 Legal Framework and Practice	50 

3.3.1 Legal Framework and Practice

3.3.1.044: Does the SOC have a legal obligation to publish financial reports?

Score: A B C

References:

/

3.3.1.045: Does the SOC follow internationally recognized accounting standards?

Score: A B C

References:

/

Peer Review Comments:

Lorsque les entreprises d'Etat ont des auditeurs externes, ces derniers suivent de près les standards d'audit internationaux. Depuis très longtemps, les entreprises d'Etat suivent les standards d'audits internationaux.

3.3.1.046: Do SOC audits include consolidated accounts that cover all of the SOC subsidiaries?

Score: A B C

References:

/

Peer Review Comments:

Oui, les audits tiennent comptes des données consolidées qui couvrent toutes les filiales des sociétés d'Etat.

3.3.1.047: Are officials of the SOC required to disclose information about their financial interest in any oil, gas or mining projects?

Score: A B C

References:

/

3.3.1.048: Does the SOC publish information on the composition of its Board of Directors?**Score:** A B C**References:**

/

3.3.1.049: Does the SOC publish information about the rules governing decision making by the Board of Directors?**Score:** A B C**References:**

The laws governing the SOC's governance and their new statutes are available to the public. For Gécamines (the most important SOC), a 2011 business plan has been circulated. Minutes of its board meetings are available at the Tribunal de Commerce upon request, as they are for all other companies that are registered in the DRC. Injunctions from the Government however are not available to the public.

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