The impact of mining in the Democratic Republic of Congo
Performance to date and future challenges

October 2013

In partnership with synergy
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<th>Abbreviation</th>
<th>Description</th>
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<tbody>
<tr>
<td>ASM</td>
<td>Artisanal and small-scale mining</td>
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<td>AMZ</td>
<td>Artisanal mining zones</td>
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<tr>
<td>DRC</td>
<td>Democratic Republic of Congo</td>
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<td>FDI</td>
<td>Foreign direct investment</td>
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<td>GDP</td>
<td>Gross domestic growth</td>
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<td>ICMM</td>
<td>International Council on Mining and Metals</td>
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<td>LSM</td>
<td>Large-scale mining</td>
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<td>OPM</td>
<td>Oxford Policy Management</td>
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<tr>
<td>PPP</td>
<td>Purchasing power parity</td>
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<tr>
<td>SSA</td>
<td>Sub-Saharan Africa</td>
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<tr>
<td>UNCTAD</td>
<td>United Nations Conference on Trade and Development</td>
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<td>UNDP</td>
<td>United Nations Development Programme</td>
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Preface

Large-scale mining can play an important role as a catalyst of economic development in low- and middle-income countries. The challenge lies in identifying the shared interests around which government, industry and other stakeholders can engage. This involves building an environment that maximises economic and social benefits for the country and its population, whilst providing an enabling environment that allows investors to capture their necessary risk-adjusted returns.

Objectives of the study:

- Take stock of the benefits that have accrued to Democratic Republic of Congo (DRC) from mining since the end of civil war in 2002;
- Understand foreign investors’ perceptions of the DRC as an investment opportunity, given the significance of foreign direct investment to the country’s mining sector;
- Identify areas where benefits may be enhanced through a stable and predictable institutional framework, especially in the context of the proposed changes to the Mining Code.

In addressing these objectives, the discussion focuses on opportunities for ‘growing the pie’ (rather than dividing a shrinking pie) through better management of the sector. This is likely to generate more far-reaching benefits than traditional zero-sum arguments around the distribution of benefits between industry, government and communities.

A caveat about the data used: The DRC’s unstable past and weak governance have seriously compromised the quality and availability of its economic and socio-economic data. To compensate for this, international data sources such as the World Bank and the UN often interpolate or extrapolate from the small amount of data available. This solution enables analysis across time but it also means that large parts of the data used for this report are estimates.
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About the authors

Oxford Policy Management

Oxford Policy Management (OPM) is a development and research based consultancy company that has 30 years' experience in providing rigorous analysis, policy advice, management and training services to national governments, international aid agencies and other public sector and non-government organisations. OPM adopts a participatory approach to solving policy problems, working in partnership with clients to improve knowledge and competence.

OPM is lead contractor for the ICMM’s Mining: Partnerships for Development (MPD) Toolkit. Starting in 2004 OPM worked with the ICMM’s Resource Endowment Initiative to develop the MPD Toolkit as a framework to (1) assess the socio-economic impacts of extractive industry projects on host countries and (2) develop collaborative responses to addressing key sector and broader public policy issues. The toolkit has been used to evaluate mining impacts in more than 10 countries, including DRC, Zambia, Ghana, Tanzania, Peru and Chile.

OPM has substantial experience in engaging with diverse stakeholders with often complex interests in the natural resources sectors. OPM supports multi-stakeholder processes towards shared analyses and actions, and we have managed such processes in Ghana, Tanzania, Peru, Chile (and currently in Zambia). For example, the dissemination of OPM's mining sector analysis in Lao PDR involved over 150 participants from the National Assembly, provincial and national government agencies, mining companies (including 12 Chinese companies), NGOs and the donor community.

OPM has worked in over 90 countries with a wide range of clients in Africa, Europe, the Commonwealth of Independent States (CIS) and transition countries, throughout Asia and the Middle East, and in central and southern America. An important feature of OPM is its strong core of technical staff, employing over 75 full-time consulting staff and regularly drawing on the experience of a carefully chosen group of specialist associates.

OPM operates in accordance with independently assessed and monitored written procedures for Quality Management (ISO 9001), Environmental Management (ISO 14001) and Information Security (ISO 27001) to ensure the company delivers consultancy services to the satisfaction and expectation of the customer/client.

Synergy Global

Modern economies are reliant on resources: food, water, minerals, construction materials and energy. The challenge we all face is to extract the benefits of these resources in ways that both generate commercial worth and simultaneously create lasting value for all citizens and their governments. It is this challenge that Synergy seeks to confront – to work with companies, communities and governments to ensure that natural resources generate real and lasting benefits for all.
Synergy works in challenging environments, with experience in over 40 countries globally and particular expertise in the extractives sector. We have established a trusted reputation for independence, integrity and innovation. Synergy was established in 1999 and has staff based in: Oxford, UK; Johannesburg, South Africa, and; Abu Dhabi, UAE. Since 1999, we have worked consistently with a small number of global leaders, helping them to develop and link strategy and practical action on the ground. Our client and partner list includes Rio Tinto, Anglo American, AngloGold Ashanti, Shell, BG Group, BP, British Department for International Development, IFC, Citibank, and ICMM.

Synergy has developed a deep knowledge base, employees and a network of associates of exceptional talent and skills which enable us to develop management strategies and systems that ensure long term maximum return on investment for our commercial clients and sustained positive social outcomes from the way they work.
Executive summary

Challenges and opportunities

As Africa’s third-largest country, with vast mineral resources, the DRC has the potential to transform both its economy and the region as a whole through its mining sector, bringing to life the 2009 Africa Mining Vision.

As the World Bank notes: “The size, resources and location of the DRC have an impact on all of Central Africa and the continent more broadly.” Many but not all of the ingredients for success are in place:

- **World-class mineral resources**: The DRC has some of the world’s richest mineral deposits, including copper (10% of world supply), cobalt (34%) and niobium (80%).
- **A clear regional action plan**: The 2009 Africa Mining Vision, formulated by Africa’s natural resource ministers, maps out how to unlock the socio-economic benefits of the continent’s mineral wealth. Key recommendations include strengthening horizontal and vertical economic linkages between the mining sector and national enterprises and other economic sectors, improving the quality of the business environment; increasing private sector confidence and participation; and reducing entry barriers and operating costs to achieve economies of scale.
- **A long way to go**: The DRC’s mineral wealth has yet to translate into sustainable socio-economic development as laid out by the Africa Mining Vision. The country’s macro-economic gains from mining have risen steeply since the end of the civil war in 2002. However 71% of the population still live in poverty, human development indicators are substantially lower than the average for sub-Saharan Africa, and basic infrastructure such as electricity is limited.

Economic impact of mining

Mining has had a direct and positive macro-economic impact on the DRC, accounting for a significant proportion of its GDP, employment, foreign direct investment and other key indicators. The indirect benefits, including impacts on the local supply chain and multiplier effects, are also substantial and can be transformative at the local level.

Recognising the DRC’s data limitations, we estimate that mining accounts for:

- **12% of GDP**: Since the end of the civil war in 2002, mining has enabled the country to move from a prolonged and deep economic recession (1988-2001), to a phase of strong economic growth, with annual GDP increasing by 5-6% and mining accounting for 12% of total GDP. Beyond taxes, royalties, and dividends, a significant share of the income from mining remains in the country in the form of salaries, payments to suppliers, and social investments.
• **One sixth of all formal employment**: The World Bank estimates that mining directly generates 50,000 jobs, equivalent to one-sixth of the country’s formal workforce, although this figure could be twice as high if induced employment from miners’ expenditure is factored in.

• **Up to 80% of foreign direct investment (FDI)**: FDI increased more than six-fold for the period 2005-2010, totalling more than US$7 billion over this time. Mining now represents an estimated 60-80% of the country’s FDI stock.

• **75% of total exports**: Mineral-related exports increased from US$1 billion in 2002 to nearly US$5 billion in 2011. This is helping the DRC generate a surplus of foreign reserves to weather the effects of any negative commodity price shocks on the economy.

• **One-tenth of taxes**: In 2010, 21 mining companies operating in the DRC paid US$773 million in taxes (EITI data), equivalent to more than 10% of the government’s estimated total revenues of US$6.4 billion, which is likely to increase in the future as production cycles mature and companies recover their initial investment.

• **Linkages, infrastructure and capacity improvement**: In addition to best-practice investments in local public services, including health and education, mining companies in the DRC have invested heavily in local infrastructure, including hydroelectric plants and the construction of roads.

### Investors’ perceptions

Foreign investors have been critical to the sector’s growth, but have become substantially less willing to invest in mining in the DRC relative to other countries. Deterrents include political instability and the cost of doing business, including the fiscal regime.

• **Strong investment potential ‘in theory’**: According to the Fraser Mining Potential Index, 180% of investors would invest in mining in the DRC if the country followed best international practice in terms of its regulatory environment, taxation and other factors. At present only the few firms that tolerate high levels of risk will consider investing, thereby limiting the competition between investors for DRC mineral assets.

• **Low and declining willingness to invest ‘in practice’**: More than 50% of investors surveyed by the Fraser Institute said that the DRC’s policy environment was a deterrent to investing in the country’s mining sector. By comparison, only 5% of investors considered South Africa’s and Tanzania’s policy environment to be a deterrent. Moreover, the proportion of investors rating the DRC an unappealing investment environment has risen steeply over the last few years, from 20%, on a par with most other countries, to its current level of more than 50%.

• **High risks and costs of doing business are key deterrents**: Political instability and security concerns are cited by investors as major investment deterrents. Moreover, the DRC ranks fifth from bottom in the World Bank’s Doing Business Index.

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The Fraser Institute survey found that corruption was a deterrent to 100% of investors (compared to 60% for Zambia), while close to 100% were concerned with the country’s infrastructure problems (compared to 50% for Zambia). In addition, 74% said the DRC’s current tax regime was a deterrent, higher than for most other countries, apart from Guinea. Uncertainty about the government’s approach to mining is deterring 93%, the second highest of all African nations.

Moving forward

The continued growth of the DRC’s mining sector, and its wider socio-economic potential, is unlikely to be achieved without a stable policy regime that provides incentives to mining companies to risk investment in the DRC, and is perceived as fair by all parties. The proposed new Mining Code presents an opportunity to foster the right conditions.

Recommended actions for moving forward include:

- **Ensure a stable and fair policy environment for investors**: The decision to invest is influenced by an array of factors, from the geological potential of mining to the political, security and business environment in a given country. By providing a stable policy regime, government can help firms take the long-term investment decisions that generate the contributions discussed in this report. Conversely, any changes to the mining policy that slow the rate of investment will have knock-on effects on direct as well as indirect and induced impacts.

- **Balance tax rates against growth rates – over the long term**: Even without changes to current fiscal provisions, the overall contributions may be expected to rise as capital allowances are exhausted. Long-term tax revenues would increase further with new investments as well as incremental investment by miners already present in the DRC as they benefit from the geological potential of existing and new deposits.

- **Create a shared vision for linkages between mining companies and local businesses, supported by capacity development**: Localisation of employment and procurement can have significant multiplier effects and diversify the economy to reduce dependence on mining. Similarly, mining company investments in local infrastructure can serve to reduce economic bottlenecks at local levels, supporting the regional multiplier effect. Such linkages are not automatic and an enabling environment for enterprise development and investment is critical. A first step is to develop a shared vision for building industrial linkages with the sector, backed up by a clear policy that is driven by a respected champion within government. President Kabila’s recent ‘5 chantiers’ initiative, which prioritised developments such as infrastructure projects, was an encouraging move in this direction.

- **Use the new Mining Code to introduce international ‘best practice’**: Some 80% of investors believe that the DRC’s mining sector has strong investment potential, provided it adheres to best international practice. The decision to reform the 2002 Mining Code provides the Government with the opportunity to influence the kind of mining companies they would like to see investing in the future. The new Mining
Code should reflect emerging international standards and best practices, and foster an environment where responsible mining companies are willing to operate and play a positive development role in the country’s remote areas and challenging post-conflict environments.

- **Strengthen the governance of public sector institutions**: Research by the International Council on Mining and Metals (ICMM) has found that the interaction between mining activities and the overall institutional framework is a critical determinant of overall benefits from mining (see Figure 16). The potential for mining to catalyse development thus depends on the ability of the DRC government to effectively manage the sector. This requires sufficient capacity to manage the entire ‘value chain’ of resource transformation – from collection of revenue to decisions on spending and execution of public projects. Recent initiatives, such as the Prime Minister’s new website for companies to report burdensome tax and administration procedures, show that the government is willing to address these issues.

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2 At present, DRC public sector institutions are systemically weak, with limited transparency on how government spends its tax revenues. This is reflected in the fact that the DRC has one of the lowest scores in the region in the Open Budget Index – an international public finance transparency and accountability benchmarking survey.
1. Country context

The DRC contains some of the world’s richest mineral deposits: These include an estimated 10% of world copper reserves, 34% of cobalt reserves and 80% of niobium (usually called columbium in the United States) and tantalum. Copper is and has been the most important mineral export, followed by cobalt (often found together with copper), gold, diamonds, tin, niobium/columbium, tantalum and tungsten. Most of the DRC’s known mineralization is contained in four main regions – Katanga, the two Kasaïs, Northeast Congo, and Kivu-Maniema.

Despite the country’s mineral wealth and recent strong economic growth, living standards remain very low: Since the end of the civil war in 2002, overall human development levels have improved but remain far below the average for Sub-Saharan Africa (SSA) (see Figure 1). Poverty is still high, with an average poverty headcount of 71.3% for the country as a whole. Importantly this varies significantly between the capital Kinshasa (41.3%) and the rural areas where much of mining takes place. For example, Katanga and Nord-Kivu have poverty headcounts of 69.1% and 72.9% respectively.

Figure 1: Human Development Index, 1990–2011

As Africa’s third-largest country, the DRC could transform the region’s socio-economic landscape, realising the Africa Mining Vision: As the World Bank notes: “The size, resources and location of the DRC have an impact on all of Central Africa and the continent more broadly.” The 2009 Africa Mining Vision, formulated by Africa’s natural resource ministers and adopted by all African Union heads of state, including the DRC, maps out how to unlock the socio-economic benefits of the continent’s mineral wealth. Some of the key recommendations include: strengthening horizontal and vertical economic linkages and the need to “improve the quality of the business environment; increase private sector confidence and participation; and reduce entry barriers and operating costs to achieve economies of scale.”
2. Economic Impact of mining in the DRC

*Mining makes a major contribution to the DRC economy, generating a bigger share of economic activity than in most other countries (see Figure 2). Although the sector’s direct economic impacts are impressive, particularly in terms of generating foreign direct investment and exports, the indirect and ‘induced’ impacts are potentially much greater, but difficult to measure due to data constraints within the DRC.*

**Figure 2: Overview of macro-level contributions of mining in DRC**

<table>
<thead>
<tr>
<th>Share Source</th>
<th>Share Data</th>
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<tbody>
<tr>
<td>Foreign Direct Investment</td>
<td>60% - 90%</td>
</tr>
<tr>
<td>Exports</td>
<td>30% - 60%</td>
</tr>
<tr>
<td>Government Revenue</td>
<td>3% - 20%</td>
</tr>
<tr>
<td>National Income (GDP &amp; GNI)</td>
<td>3% - 10%</td>
</tr>
<tr>
<td>Employment</td>
<td>1-2%</td>
</tr>
<tr>
<td>DRC mining sector contribution and sources</td>
<td>Around three quarters (author’s estimate)</td>
</tr>
<tr>
<td></td>
<td>78% (UNCTADstat 2010)</td>
</tr>
<tr>
<td></td>
<td>12% (EITI data, 2010)</td>
</tr>
<tr>
<td></td>
<td>12% (WB 2012 estimate)</td>
</tr>
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<td></td>
<td>c.17% (formal emp.)</td>
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Source: Authors’ estimates and previous work undertaken by OPM, based on publicly available data.

2.2 Gross Domestic Product (GDP)

Since the end of the civil war, the DRC economy has been recovering, with strong economic growth: After a period of high negative annual GDP growth between 1988 and 2001, growth has recently stabilised around 5-6% (see Figure 3). Since the end of the civil war in 2002, macroeconomic conditions have stabilized, with inflation and external indebtedness falling substantially.
Mining accounts for an estimated 12% of GDP: As the DRC’s most significant economic driver, the mining sector has contributed heavily to the country’s economic turnaround by resuming large investments in mine development, plant and equipment. As a result, production levels in 2011 surpassed their previous high point achieved in 1987 (see Figure 4). Available estimates suggest that the mining sector now accounts for approximately 12% of the DRC’s GDP, and up to 50% in Katanga (World Bank 2012). Importantly, these estimates only take into account direct impacts, and only relate to the formal economy.

The true economic impacts of mining are vastly greater than the GDP figures indicate: In addition to the direct GDP effects, there are indirect impacts from the mining supply chain and so-called ‘induced’ impacts, for example when mine workers and employees of supplier companies spend their salaries in the local economy, generating
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jobs and economic output, often within the informal sector. Whilst data for indirect and induced impacts are not available for the DRC, a World Bank (2012b) study of mining in Zambia found that the total income contributions from mining, including direct and indirect, were roughly twice those generated directly by the sector.

2.3 Foreign Direct Investment (FDI)

Since the end of the civil war in 2002 total FDI in the DRC has grown rapidly:
Although the data should be treated with caution, the figures reported by the World Bank show a surge in FDI over the five-year period of 2006–2010, with a cumulative investment of US$7.7 billion (see Figure 5). Much of this investment was probably made by companies that had resolved outstanding questions over contracts, so the investments were more or less already ‘in the pipeline’.

Figure 5: Inward FDI flows, 2006–2010 (current US$ millions)

Source: World Development Indicators.

Mining accounts for up to 90% of FDI: Although national statistics do not provide estimates of FDI by sector, it is likely that the vast majority of this FDI relates to mining. This is consistent with research undertaken by OPM elsewhere, where we have found that mining FDI in less-developed, mineral-rich countries often makes up 60–90% of total FDI (ICMM 2012). Tenke Fungurume Mine (TFM) is the largest private sector investment in the DRC’s history, having made a cumulative investment of over US$2 billion (TFM 2009).

The growth in FDI has multiple benefits: Contributions from increased FDI include increased local incomes through employment, raised local incomes resulting from mine employees’ local spending, and linkages with domestic goods and service providers, facilitated by enhanced infrastructure. Inflows of FDI are highest during the construction phases of a mining project, when the demand for unskilled and semi-skilled labour, such as construction workers and electricians, is likely to be largest. Mine workers’ local spending is usually very important in low-income countries such as DRC, where the relatively high wages of mine employees represent a major injection of income into the
local economy. Benefits enjoyed by local suppliers have been more limited due to difficulties faced by local firms in meeting quality, price and safety standards.

2.4 Exports

**Mining generates three quarters of the DRC’s exports:** Total mineral related exports have grown rapidly, from less than US$1 billion in 2002 to almost US$5 billion in 2011. During this period mineral exports have averaged 75% of total exports.

**Balance of payments contributions from mining have been substantial:** As Figure 6 illustrates, export earnings from mining have recently surpassed the value of imports. This has not only enabled the country to finance imports of a range of critical inputs currently not produced domestically, but also provided the DRC with a growing reserve of foreign currency, which will help minimise the negative impact of adverse commodity price shocks on the economy.

**Figure 6: Trade balance (merchandise imports and exports in US$ million), 1995–2012**

![Graph showing trade balance (merchandise imports and exports in US$ million), 1995–2012.](source: UNCTADstat)

So far there has been little evidence of ‘the resource curse’: Significant reliance of mineral exports carries risks for the DRC that need to be carefully managed. For example, failure to put in place adequate institutions to manage volatile commodity prices can lead to financial stress when commodity prices drop: during the financial crisis of 2008-9, the Congolese Franc depreciated significantly increasing import costs of necessary inputs such as petroleum. An additional risk is that of ‘Dutch Disease’, whereby large inflows of revenue associated with resource extraction lead to an appreciation of the real exchange rate through nominal exchange rate appreciation, higher domestic inflation, or a combination of both. Such developments make imports cheaper, undermining the competitiveness of other tradable sectors and reducing diversification. To date there has been limited evidence of Dutch Disease in DRC. An OPM case study found that in mining regions dollar inflation did not differ from elsewhere (OPM 2011). Moreover, since the DRC is only partly a monetary economy any general
inflation caused by such inflows would be expected to have a very limited impact on the lives of the vast majority of Congolese.

2.5 Taxes

The fiscal regime of the 2002 Mining Code has attracted private investment: In the last decade the DRC has made significant progress towards improving the legislation governing the mining sector. The enactment of the 2002 Mining Code and the restructuring of the state-owned copper and cobalt producer, GECAMINES, demonstrated the government’s desire to attract private investment for exploration and development of the DRC’s mineral resources. The fiscal regime detailed in the 2002 Mining Code has generally been regarded as competitive and succeeded in attracting investment, despite the high risks of investing in the country.

Taxes from mining represent approximately 10% of government revenues: The latest EITI report (reconciling 2010 data) covered 21 companies in the mining sector. These companies reported paying US$773 million (see Table 1), representing over a tenth of the total government revenues (including overseas assistance) estimated at US$6.4 billion in 2010 (World Bank 2010).

Table 1: Government revenues (oil, gas and mining in US$ million), 2007-10

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<thead>
<tr>
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<th>2007</th>
<th>2008</th>
<th>2009</th>
<th>2010</th>
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<tbody>
<tr>
<td>Companies reported paying</td>
<td>405</td>
<td>572</td>
<td>293</td>
<td>773</td>
</tr>
<tr>
<td>Government reported receiving</td>
<td>405</td>
<td>516</td>
<td>255</td>
<td>876</td>
</tr>
</tbody>
</table>


Tax payments are likely to increase further – in absolute terms and relative to total government revenue – even in the absence of changes to fiscal rates: Large investments into the DRC since the end of civil war means that many projects are still at early stages in the life cycle. Given that tax revenues in many instances are deferred through capital allowances, this means that contributions are delayed. As a result, in a growing sector, the overall tax take (as a share of production value) will gradually increase over time even in the absence of an increase in tax rates.

2.6 Linkages, infrastructure and capacity improvement

2.6.1 Employment

Mining accounts for approximately one sixth of total formal employment: Comprehensive data on the employment generated by the mining industry in the DRC is not publicly available. An estimate from 2008 suggested there were 50,000 formal workers, including permanent and contract employees (Cuvelier 2009). This would
represent around a sixth of estimated total DRC formal sector employees of 300,000 (World Bank 2012). However, it is worth noting that formal sector employees represent as little as 1% of the total DRC labour force of approximately 30 million (World Bank 2012).

The impact of indirect and induced employment could be substantially higher: Due to data limitations within the DRC, it was not possible to estimate the indirect employment generated by suppliers to mining companies, but evidence from other countries and companies indicates the supply-chain benefits are significant. For example, almost half of the worldwide economic contribution of the Anglo American group comes from its use of local suppliers (Anglo American, 2012), as Figure 7 illustrates.

**Figure 7: Anglo American: Economic value distribution (US$ million)**

![Figure 7: Anglo American: Economic value distribution (US$ million)](image)

Source: Anglo American (2012).

Moreover, case studies carried out by OPM in the DRC and elsewhere have found that induced employment – representing job opportunities created when the incomes from employees of the mining companies and its suppliers are spent in the local economy – is as high as direct and indirect employment put together (OPM 2011, OPM 2009).

Examples of how mining companies create both indirect and direct employment include:

- **Banro Corporation (South Kivu and Maniema Provinces):** Since November 2004, Banro has invested US$492 million in South Kivu and Maniema Provinces, creating jobs and business opportunities for local people, including the construction of the Nabuntalaga marketplace at Luhwindja. The company employs over 1,000 Congolese directly working in its operations and another 3,000 through contractors. Banro’s contribution to local procurement is estimated at US$117 million, spent on goods, services and wages.

- **Tenke Fungurume Mining (Katanga Province):** The total number of TFM employees in the DRC is about 7,000, of which: about 3,000 are directly employed by TFM; 3,000 through contractors working on the existing mine; and roughly an 1,000
contractor workers are employed on an expansion project. An additional large number of local jobs have been created that are indirectly linked to TFM’s activities.

An estimated 10 million informal jobs are provided by artisanal and small-scale mining (ASM), but the sector is not adequately covered by the law – notwithstanding its prominence in the Africa Mining Vision. In spite of the low revenues of most artisanal miners, studies suggest that the sector is responsible for up to 80% of economic activity in some areas of the country once wider economic activities associated with ASM communities, such as food shops, pharmacies and petty traders, are factored in.

Examples of successful cooperation between ASM and large-scale mining (LSM) activities highlight the need to revisit the design of legislation so that ASM activity and associated livelihoods are enhanced rather than restricted. Examples include:

- **Tenke Fungurume Mining**: The firm helped create hundreds of new jobs and alternative livelihoods for artisanal miners who had been evacuated from one of its operations by helping them develop local businesses.

- **MMG Kinsevere (Katanga)**: In 2008, the company needed to access the exploration site near Lubumbashi (Katanga) where 300 artisanal miners were present. The company opted for a negotiated solution, proposing to the artisanal miners to either pay them one month of income as compensation, help them to sell their stocks equipment or employ them as part of the company’s exploration team for a month. Thirty people accepted the job offer and gained the necessary training by helping the team’s geologists, maintaining the camp and working with the security teams.

### 2.6.2 Infrastructure

**Mining has been a catalyst for major infrastructure developments**: In a vast country with limited communication routes, the development of a transport network can have a significant positive impact on economic growth and stability. From creating and re-instating road arteries and air strips to building power stations and rail networks, mining companies in the DRC have contributed to the establishment of large-scale infrastructure that would otherwise not have been possible to fund.

Examples of major infrastructure projects include:

- **Randgold (Kibali, Oriental Province)**: Randgold is investing US$165 million to develop a 20MW power station near the Kibali River, as well as other power stations in the region. The infrastructure will provide both the mining project and the local community with a reliable energy supply.

- **Banro (Twangiza and Namoya, South Kivu)**: Banro has built or rebuilt over 500 km of roads and replaced or upgraded over 100 bridges as part of its project’s development.

- **Tenke Fungurume Mining (Katanga)**: TFM has built four hydroelectric plants and a transmission line, and sells surplus power at low rates. The company has also
upgraded local roads, as well as created infrastructure for markets in both Tenke and Fungurume.

2.6.3 Local public services

Significant investments have been made in local public services such as healthcare: Mining companies have taken responsibility for investing directly in local development by providing services such as healthcare, agriculture and food security, water supply and education for host communities in remote mining areas. These initiatives, often provided in partnership with local government agencies and NGOs, have benefits for both industry and local communities. For industry, the wellbeing of local communities surrounding projects has a direct effect on the stability of their operations. Local communities, in turn, benefit through increased social services where government capacity is often limited in investing and maintaining basic services.

Examples of social investment projects by mining companies include:

- **MMG (Kinsevere), Tiger Resources (Katanga) and Mawson West (Diklushi)** are supporting the government’s food security program by providing seeds, fertiliser and farming know-how to local farmers, establishing 1,500 hectares of maize crops in their local areas. These companies are also promoting agricultural innovation through various programs which include diversification of crop production via distribution of vegetable-growing starter packs, creation of market gardens, tree nurseries, fruit tree farming, commercial fruit production, and encouraging links (with COMESA and ACIAR involvement) to government agricultural agencies in Western Australia. MMG has provided water bores across 18 local villages, built four schools and a community cinema hall and provided funding for 42 teachers.

- **Katanga Mining Limited (Kolwezi):** At Mwangeji Hospital, Katanga Mining has supported a major refurbishment, restocked the pharmacy, drilled boreholes, provided the infrastructure to access water, and constructed two sanitation blocks.

- **Banro (South Kivu and Maniema):** Banro has built 11 schools and rehabilitated two more, currently serving 5,500 students in the communities around its operations. Members of the local community are also able to make use of adult-education facilities such as the Makalanga Women’s Centre, built in 2011.

- **TFM (Katanga):** In 2012, TFM drilled 78 new water wells with pumps and introduced a system of regular repair and maintenance. Five schools have been built by TFM and one rehabilitated. TFM covers operational costs and wages of staff. A health programme provides support to the Fungurume Health Zone.
3 Investors’ perceptions

As shown in the previous chapter, foreign investors play a pivotal role in the DRC’s mining sector and, by implication, in the country’s economic development. Approximately 80% of these investors believe the DRC has significant investment potential but they are becoming increasingly reluctant to invest in the country due to the current policy environment, uncertainty and other factors, which could undermine the country’s continued economic development.

3.2 Investor interest is strong but declining

The vast majority of investors see strong mining potential in DRC – in theory: According to the Mining Potential Index developed by the Fraser Institute, more than 80% of investors surveyed stated that the DRC would be an attractive opportunity for mining investors if it adopted ‘best practice’ policies. Best practice policies include a world-class regulatory environment, highly competitive taxation, low political risk or uncertainty, and a fully stable mining regime. As Figure 8 illustrates, the DRC has been considered one of the most potentially attractive countries for mining investors since 2008, particularly relative to other sub-Saharan countries, although its appeal has recently slipped below that of Chile.

Figure 8: Best Practice Mineral Potential Index, 2008/09 to 2012/13

In practice, most investors have become increasingly wary: In the last decade the DRC has made significant progress in improving the legislation governing the mining sector. Specifically, the introduction of the 2002 Mining Code succeeded in providing a stable environment for attracting private investment for the exploration and development of the DRC’s mineral resources. During this period several large mining projects were attracted to the area. However the current policy environment remains a significant deterrent to investment when compared to other countries. In 2012-2013, over 50% of
respondents indicated that the policy environment in DRC is a strong deterrent to investment. Figure 9 plots the proportion of investors that viewed the current policies as a deterrent for investment: the DRC scores significantly worse than other selected countries, and shows a significant deterioration in perceptions between 2011-12 and 2012-13.

**Figure 9: Current policies as a deterrent to investment, 2008/09 to 2012/13**

![Figure 9: Current policies as a deterrent to investment, 2008/09 to 2012/13](image)

Source: Fraser Index 2008/09 – 2012/13

### 3.3 Uncertainty is a key deterrent

**Political stability is a major concern for over 80% of investors:** Civil conflict continues to generate political instability in large parts of the country. According to the 2012-2013 Fraser Index, 40% of investors would not pursue any investment in DRC and 40% would be strongly deterred from investing due to political instability (see Figure 10). Only Guinea (Conakry) is considered more politically unstable, largely due to the country’s political deadlock since its 2008 coup.
The impact of mining in the Democratic Republic of Congo

Figure 10: Political instability: proportion of investors deterred

![Bar chart showing political instability](chart10.png)

Source: Fraser Index 2012/2013.

Nearly all investors are concerned about physical security: 96% of respondents to the Fraser Institute survey indicated that the security situation was a deterrent to investment, slightly higher than Guinea and South Africa (see Figure 11).

Figure 11: Security situation: proportion of investors deterred

![Bar chart showing security situation](chart11.png)

Source: Fraser Index 2012/2013.

The DRC rates worse than other countries in terms of administrative and regulatory uncertainty: Clarity of rules and consistent application by government institutions of mining rules are essential to provide an enabling environment for long-term investments. When asked whether the administrative and regulatory uncertainty of
the mining sector affected investor perceptions, the DRC had the most negative responses, closely followed by South Africa and Guinea (see Figure 12). This uncertainty is influenced by:

- A lack of clarity regarding the division of power between central and regional governments and their respective regulating access to resources;
- Gaps in the mining legislation related to small-scale mining permits, community consultations, and environment protection;
- Lack of capacity to implement law.

**Figure 12: Administration and regulatory uncertainty: proportion of investors deterred**

The review of mining contracts in 2007 had an impact on the DRC's attractiveness as an investment destination: The process, led by the Revisitation Commission, was contentious but eventually all contracts except one were renegotiated. This process resulted in major mining companies considering investments in the DRC more cautiously and assigning a higher risk premium to such investments.

### 3.4 Cost of doing business is also a major obstacle

The DRC ranks fifth from bottom in the World Bank’s Doing Business Index: The Doing Business Index captures several important dimensions of the regulatory environment as they apply to local firms. Out of a total of 186 countries, the DRC scores 181 as a difficult country to carry out business. The country scores especially low in three key categories, highlighting the country’s institutional weaknesses and lack of infrastructure (see Table 2):
• *Paying taxes:* The total tax rate has increased by 46% between 2010 and 2013 to reach 339.7% of companies’ profit, (compared to 15.2% in Zambia). This is composed of a profit tax of 58.9%, labour tax and contributions of 7.9% and other taxes and fees of 272.8%. In total, companies have to pay taxes 32 times per year.

• *Trading across borders:* The DRC distinguishes itself by the length of time necessary to import and export, 44 and 63 days respectively, and the high cost per container: US$3,155 for export and US$3,435 for import. These costs include: the costs for documents, administrative fees for customs clearance and inspections, customs broker fees, port-related charges and inland transport costs.

• *Enforcing contracts:* Overall, 43 procedures are necessary to ensure contracts are enforced (compared to 38 in Tanzania), taking on average 610 days to complete (462 in Tanzania), and costing 147.6% of the claim (14.3% in Tanzania).

**Table 2: Ease of Doing Business Indicators 2013 for DRC and other mining countries**

The table below presents the rankings, out of 186 countries, for selected mining countries from the 2013 World Bank Doing Business for eight key indicators.

<table>
<thead>
<tr>
<th>Country</th>
<th>Ease of doing business</th>
<th>Construction permits</th>
<th>Getting electricity</th>
<th>Registering property</th>
<th>Protecting investors</th>
<th>Paying taxes</th>
<th>Trading across borders</th>
<th>Enforcing contracts</th>
</tr>
</thead>
<tbody>
<tr>
<td>Chile</td>
<td>37</td>
<td>84</td>
<td>40</td>
<td>55</td>
<td>32</td>
<td>36</td>
<td>48</td>
<td>70</td>
</tr>
<tr>
<td>South Africa</td>
<td>39</td>
<td>39</td>
<td>150</td>
<td>79</td>
<td>10</td>
<td>32</td>
<td>115</td>
<td>82</td>
</tr>
<tr>
<td>Peru</td>
<td>43</td>
<td>86</td>
<td>77</td>
<td>19</td>
<td>13</td>
<td>85</td>
<td>60</td>
<td>115</td>
</tr>
<tr>
<td>Ghana</td>
<td>64</td>
<td>162</td>
<td>63</td>
<td>45</td>
<td>49</td>
<td>89</td>
<td>99</td>
<td>48</td>
</tr>
<tr>
<td>Zambia</td>
<td>94</td>
<td>151</td>
<td>151</td>
<td>96</td>
<td>82</td>
<td>47</td>
<td>156</td>
<td>89</td>
</tr>
<tr>
<td>Tanzania</td>
<td>134</td>
<td>174</td>
<td>96</td>
<td>137</td>
<td>100</td>
<td>133</td>
<td>122</td>
<td>36</td>
</tr>
<tr>
<td>Guinea</td>
<td>178</td>
<td>152</td>
<td>88</td>
<td>151</td>
<td>177</td>
<td>183</td>
<td>133</td>
<td>131</td>
</tr>
<tr>
<td>DRC</td>
<td>181</td>
<td>81</td>
<td>140</td>
<td>106</td>
<td>158</td>
<td>171</td>
<td>170</td>
<td>173</td>
</tr>
</tbody>
</table>


**Nearly all investors are deterred by the DRC’s weak infrastructure:** Many mining areas are not accessible by road, while others only remain open to the outside world due to the access roads built and maintained by large mining companies. Securing sufficient energy supplies is also difficult, despite the country’s massive hydroelectric potential. When asked if access to infrastructure represented a deterrent to investment, the DRC once again scored poorly, with close to 100% of respondents reacting negatively (see Figure 14).
Corruption is another major disincentive: The DRC has the worst score out of the eight sample countries, with 100% of respondents indicating that the threat of corruption is a deterrent to investment (see Figure 1). This is consistent with other international governance indices where the DRC performs poorly. The Mo Ibrahim index scores the DRC 41 out of 52 nations (where 52 is the worst-performing country) for accountability, transparency, and corruption in the public sector.

The taxation regime is also perceived as a disincentive: 74% of respondents
indicated that the taxation regime in the DRC was a deterrent to investment. This perception is likely to be affected as much by the tax rates as the threat to tax stability and the tax administration itself. Other countries with relatively poor perceptions from investors’ perspective include Guinea and Tanzania (see Figure 15).

**Figure 15: Taxation regime: Proportion of investors deterred**

Source: Fraser Index 2012/13.
4 Moving forward

The DRC’s ability to unlock the socio-economic potential of mining depends on creating a policy and business environment that not only attracts foreign investors but also enables local businesses, including artisanal mining and suppliers, to flourish. The proposed changes to the 2002 Mining Code present an opportunity to achieve this, and for the DRC to be in the vanguard of the Africa Mining Vision. Here we recommend some measures for moving constructively forward.

4.2 Stimulating additional investment

Ensure a stable and fair policy environment for investors: The decision to invest is influenced by an array of factors, from the geological potential of mining to the political, security and business environment in a given country. By providing a stable policy regime, government can help firms take the long-term investment decisions that generate the contributions discussed in this report. Conversely, any changes to the mining policy that slow the rate of investment will have knock-on effects on direct as well as indirect and induced impacts.

Balance tax rates against growth rates – over the long term: Even without changes to current fiscal provisions, the overall contributions may be expected to rise: in mining countries with rapidly expanding mining sectors, capital allowances are important at the early stages of new operations, leading to the deferral of taxes. For a sector at this stage of development, a forward looking forecast may resemble that of ICMM’s case study of the Tanzanian gold mining sector, showing an expected ramp-up in corporation taxes as the sector matures (ICMM 2009). Long-term tax revenues would increase further by new investments as well as incremental investment by miners already present in the DRC as they learn about the geological potential of existing and new deposits. However these investment decisions will be evaluated against the policy framework in place at the time, as well as the host country’s track record in adhering to previous commitments.

Establish a fiscal regime that is perceived as internationally competitive: We recognise that there is no ideal tax system. Nevertheless, nearly three-quarters of investors consider the DRC’s current fiscal regime a disincentive for investing. Our benchmarking of fiscal provisions found that the proposed revisions would increase the government’s fiscal take from mining but place the DRC among the top of the countries surveyed in terms of higher fiscal rates (see Annex). This could potentially reduce foreign direct investment and contribute to ‘shrinking the pie’.

Consult widely on the new Mining Code to manage industry expectations: The new Mining Code represents an opportunity to strengthen the legal framework for mining. However this requires sustained consultations with all stakeholders, to avoid changes to the Code that are perceived as drastic and/or unclear. The priority should be to ensure mutual understanding of what the changes entail, and their impacts on the economic viability of the Congolese mining sector and population as a whole. Importantly, the need for mutual understanding extends to how the new code will be enforced – reflecting
investors’ concerns regarding the administrative capacity of government to implement policy in a consistent and fair manner.

### 4.3 Building linkages between mining and other sectors

**Create a shared vision for linkages between mining companies and local businesses:** Localisation of employment and procurement can have significant multiplier effects, generating addition jobs, increasing inputs into the local economy and developing skills and businesses that can help drive the economy beyond the life of mine. Such linkages are not automatic and an enabling environment for enterprise development and investment is critical. There are many ways a government can work with the mining industry to encourage local content. Possibilities include:

- Develop a vision for building industrial linkages with the sector, backed up by a clear policy that is driven by a respected champion within government;
- Encourage collaborative structures between local communities, authorities and the mining operation, and ensure local authorities are accountable for agreed outcomes;
- Create an enabling environment for small businesses, for example through improved processes for establishing and running businesses, access to financing and lending, and simplified tax returns;
- Provide incentives to invest in skills and local-enterprise-development schemes. These incentives do not need to be financial. For example, local skills can be developed through an industrial training scheme and by providing on-going business management support to start-up enterprises.
- Support institutions and initiatives that build local skills of relevance to the mining sector, to leverage forecast demand provided by mining industry;
- Invest in infrastructure which reduces transportation costs and makes local suppliers more competitive.

**Provide fiscal incentives for companies to invest in infrastructure:** Mining sector investment in infrastructure represents an important opportunity for collaboration between industry and government given the mutual gains from improved infrastructure. There are several ways the government could encourage investment in infrastructure, for example through fiscal incentives, particularly noting the upfront capital costs involved in mining projects, the long-term payback periods and complexities of structuring the investment, development and operations between multiple parties. The government can also lend its support to collaborative infrastructure investment involving several investors, and facilitate approval procedures. Encouragingly, the government has recently taken steps to improve the infrastructure. President Kabila’s ‘5 chantiers’ initiative, which prioritised developments such as the construction of bridges and other infrastructure projects, is one example.

**Motivate companies to invest in local public services:** The potential role of mining investors in investing in local public services should be recognised and incentivised in the Mining Code. Possible approaches include:
• Establish community development agreements in order to provide an agreed and secure framework for local investments;
• Offer tax incentives for investment in local public services and partnerships with local government.
• Encourage the mining industry to provide (international) consultancy support to run training workshops for government officials so that they acquire expertise where shortcomings are noted, for example in IT, inter-service communication, and project management.

**Compensate mining areas for negative externalities:** Large-scale mining can attract significant inward migration, leading to population growth and strains on public services in mining areas, suggesting that mining provinces need to be compensated for these negative externalities from mining. The existing Code provides for sub-national revenue transfers from central government to mining provinces. However there are different interpretations of what the Code is meant to provide, and very limited transfers in fact reach provinces where mining takes place.

### 4.4 Strengthening institutions and governance

**Use the new Mining Code to introduce international ‘best practice’:** As discussed earlier, 80% of investors believe that the DRC’s mining sector has strong investment potential, provided it adheres to best international practice. The current reforms to the 2002 Mining Code provide the Government with the opportunity to influence the kind of mining companies they would like to see investing in the future. The new Mining Code should reflect emerging international standards and best practices, and foster an environment where responsible mining companies are willing to operate and play a positive role in the country’s remote areas and challenging post-conflict environments. By introducing legislation that encourages good governance, accountability and transparency, mining companies would be able to thrive among stable and economically prosperous communities.

**Strengthen the governance of public sector institutions:** Research by the ICMM has found that the interaction between mining activities and the overall institutional framework is a critical determinant of overall benefits from mining (see Figure 16). The potential for mining to catalyse development thus depends on the ability of the DRC government to effectively manage the sector. This requires sufficient capacity to manage the entire ‘value chain’ of resource transformation, from collection of revenue to decisions on spending and execution of public projects.\(^3\) It should be noted that the government recognises these challenges, reflected in several recent initiatives to improve governance. Examples include the Prime Minister’s new website for companies to report burdensome tax and administration procedures; and a new website for

\(^3\) At present, DRC public sector institutions are systemically weak, with limited transparency on how government spends its tax revenues. This is reflected in the fact that the DRC has one of the lowest scores in the region in the Open Budget Index—a international public finance transparency and accountability benchmarking survey.
companies to report fraud and illegal activities by officials, launched by the Minister of Justice, in close collaboration with the Federation of Congolese Enterprises.

**Figure 16: Interactions between mining and governance determine overall outcomes**

![Diagram showing interactions between natural resource endowment, mining activities, efficient governance and institutions, leading to a positive outcome.]

Industry’s contribution to development of...
- Legislative framework
- Macroeconomic and Fiscal Regime
- Public administrative capacity
- Production inputs
- Human capital development
- Social cohesion

Challenges
Management of potential political-economic conflicts and power struggles

Outcome
More efficient governance structure and institutions that increase the socio-economic rate of return of extractive activities.


### 4.5 Supporting responsible ASM

**Promote responsible collaboration between ASM and LSM:** Despite the significance of artisanal and small-scale mining (ASM) to local livelihoods, the lack of clarity regarding legal provisions for the sector has forced many to operate illegally, in some cases posing a serious threat to the stability of the sector. Artisanal mining activities outside of designated Artisanal Mining Zones (AMZ) or in large-scale mining (LSM) concessions are considered illegal in DRC. By 2010, the government had officially granted 189 AMZs across the country, however many of these sites are not being explored for several reasons, including: lack of geological knowledge regarding the sites; lack of funds to invest in developing the sites; inaccessible sites due to conflict; and (in some cases) concessions that were better or equally well suited for ASM exploitation but were granted for LSM activities instead.

**Making collaboration between ASM and LSMs permissible by law would enhance benefits for all.** Given the lack of suitable AMZs, informal ASM activity is commonly found concentrated in or around LSM areas. Due to the Provision in the 2002 Mining Code that does not permit “a perimeter covered by a valid mining title to be transformed into an artisanal mining area”. This limits opportunities for LSMs to work collaboratively...
with artisanal miners to identify sites on their concessions that are suitable for ASM mining. Mining companies efforts to comply with the law and remove artisanal miners by force often result in conflict.
References

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Annex

This Annex presents the findings of a rapid assessment benchmarking exercise. The objective of the exercise was to place DRC’s existing and proposed new mining code in international perspective. The data draws largely on research conducted by Conrad (2012) and other publicly available sources.

We discuss the main features of the tax regime in turn.

- **Corporate tax:** Over the past two decades there has been an international trend towards lowering income tax rates, with most countries setting rates below 35% (Otto 2000) (see Table 3). Article 247 of the DRC’s proposed Code reflects a policy intention to align the tax rates of mining with other sectors of the economy. However, at 35%, the DRC’s proposed Mining Code corporate income tax rate is relatively high. Although the change could be seen as an adaptation to the rate prevailing for other sectors, mining companies are placed at a disadvantage vis-à-vis companies active in other industries since they are also burdened with sector specific taxes.

- **Royalties:** Under the 2002 Mining Code, the DRC’s royalty scheme appeared very competitive. However, the proposed amendment for copper and precious metals triples the royalty rate from 2% to 6%, placing the DRC among the countries with the highest rates, in line with recent revisions in neighbouring Zambia, where the rise in royalty rates has been severely criticized. **Excess profit tax:** Very few countries apply excess profits tax: it is usually intended to capture mineral rents, but defining rent often poses severe practical difficulties. The excess profit tax proposed in Article 251 is a new addition to the fiscal regime in the DRC. Compared with other excess profit schemes, the proposed rate of 50% is high, and the method of application based on a price metric appears to be a very blunt instrument, particularly as it does not take into account rising costs. The proposed revisions to the Code do not clarify how this would be implemented in practice.

- **Withholding tax on dividends:** Withholding taxes (WHT) are common, but a range of inter-government treaties including bilateral investment treaties, dual tax treaties, or special agreements, are often used to lower or eliminate these tax liabilities for companies headquartered in trading partner countries. The DRC’s proposed WHT rate of 20% is twice its current rate. Although this rate is lower than the rates for Chile and Australia, some countries, such as Mexico and Zambia, have removed WHT for the mining sector. A growing number of countries have also entered tax treaties as a means to promote investment – so far, the DRC has no such treaties.

- **Tax incentives:** Accelerated depreciation (or capital allowances) provisions are used to allow operators to deduct the cost of a physical plant, such as equipment or buildings, more rapidly than their useful economic life. Governments in almost all major mining countries provide such incentives, although the nature and scope of these incentives vary widely. Under the 2002 Mining Code (Article 249), the DRC offered a very attractive tax incentive by allowing 60 per cent of asset costs to be depreciated in first year of production. The proposed Mining Code provision has removed this incentive, making DRC less attractive and raising the risk.
- **Equity participation:** Few countries impose equity participation and, where they do, the arrangements usually vary on a mine-by-mine basis. The new Mining Code’s proposal to impose a 35% state participation is risky and significantly unattractive relative to other countries. It is also unclear how this would be applied in practice as the proposed changes to the Code require both 35% of equity to be granted upon award of a mining exploitation license (Article 71), and an additional 5% of equity to be transferred on every renewal of the exploitation permit (Article 80).

**Table 3: Comparison of corporate income tax rates**

<table>
<thead>
<tr>
<th>Country</th>
<th>Corporate income tax rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>South Africa</td>
<td>28% + 33% branch profits tax (0-28% for small businesses)</td>
</tr>
<tr>
<td><strong>DRC proposed Mining Code</strong></td>
<td>35% (35% for other sectors)</td>
</tr>
<tr>
<td>Kazakhstan</td>
<td>effective tax rate 32% (15% corporate tax + 15% branch profits tax)</td>
</tr>
<tr>
<td>Australia</td>
<td>30%</td>
</tr>
<tr>
<td><strong>DRC before amendments</strong></td>
<td>30% (40% for other sectors)</td>
</tr>
<tr>
<td>Peru</td>
<td>30%</td>
</tr>
<tr>
<td>Mexico</td>
<td>28% flat tax</td>
</tr>
<tr>
<td>Indonesia</td>
<td>25% (flat rate tax)</td>
</tr>
<tr>
<td>Zambia</td>
<td>30%</td>
</tr>
<tr>
<td>Chile</td>
<td>17% + Global Complementary Tax (ranging from 0 - 40%)</td>
</tr>
</tbody>
</table>

Source: Conrad (2012) and other sources.