

The Democratic Republic of Congo

RISK & COMPLIANCE REPORT

DATE: January 2017

Executive Summary - Congo DR	
Sanctions:	UN, EU and US Financial and Weapons
FATF list of AML Deficient Countries	No
Higher Risk Areas:	<p>Non - Compliance with FATF 40 + 9 Recommendations</p> <p>Not on EU White list equivalent jurisdictions</p> <p>Corruption Index (Transparency International & W.G.I.)</p> <p>World Governance Indicators (Average Score)</p> <p>Failed States Index (Political Issues)(Average Score)</p>
Medium Risk Areas:	Weakness in Government Legislation to combat Money Laundering
<p>Major Investment Areas:</p> <p>Agriculture - products:</p> <p>coffee, sugar, palm oil, rubber, tea, cotton, cocoa, quinine, cassava (manioc), bananas, plantains, peanuts, root crops, corn, fruits; wood products</p> <p>Industries:</p> <p>mining (copper, cobalt, gold, diamonds, coltan, zinc, tin, tungsten), mineral processing, consumer products (textiles, plastics, footwear, cigarettes), metal products, processed foods and beverages, timber, cement, commercial ship repair</p> <p>Exports - commodities:</p> <p>diamonds, copper, gold, cobalt, wood products, crude oil, coffee</p> <p>Exports - partners:</p> <p>China 53.4%, Zambia 24.5%, Belgium 5.6% (2012)</p> <p>Imports - commodities:</p> <p>foodstuffs, mining and other machinery, transport equipment, fuels</p>	

Investment Restrictions:

The Democratic Republic of Congo (DRC) remains a highly challenging environment in which to conduct business. At the same time, the current government has taken several steps to improve the business climate and improve economic governance.

The DRC does not have any barriers specifically targeting or restricting Foreign trade or investment. There are, nevertheless, some non-tariff related barriers present; including the multitude of taxes collected on imported goods by several government agencies and expensive, slow and burdensome commercial/customs procedures.

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Section 1 - Background

Established as a Belgian colony in 1908, the then-Republic of the Congo gained its independence in 1960, but its early years were marred by political and social instability. Col. Joseph MOBUTU seized power and declared himself president in a November 1965 coup. He subsequently changed his name - to MOBUTU Sese Seko - as well as that of the country - to Zaire. MOBUTU retained his position for 32 years through several sham elections, as well as through brutal force. Ethnic strife and civil war, touched off by a massive inflow of refugees in 1994 from fighting in Rwanda and Burundi, led in May 1997 to the toppling of the MOBUTU regime by a rebellion backed by Rwanda and Uganda and fronted by Laurent KABILA. He renamed the country the Democratic Republic of the Congo (DRC), but in August 1998 his regime was itself challenged by a second insurrection again backed by Rwanda and Uganda. Troops from Angola, Chad, Namibia, Sudan, and Zimbabwe intervened to support KABILA's regime. In January 2001, KABILA was assassinated and his son, Joseph KABILA, was named head of state. In October 2002, the new president was successful in negotiating the withdrawal of Rwandan forces occupying the eastern DRC; two months later, the Pretoria Accord was signed by all remaining warring parties to end the fighting and establish a government of national unity. A transitional government was set up in July 2003; it held a successful constitutional referendum in December 2005 and elections for the presidency, National Assembly, and provincial legislatures took place in 2006. In 2009, following a resurgence of conflict in the eastern DRC, the government signed a peace agreement with the National Congress for the Defense of the People (CNDP), a primarily Tutsi rebel group. An attempt to integrate CNDP members into the Congolese military failed, prompting their defection in 2012 and the formation of the M23 armed group - named after the 23 March 2009 peace agreements. Renewed conflict has led to the displacement of large numbers of persons and significant human rights abuses. As of February 2013, peace talks between the Congolese government and the M23 were on-going. In addition, the DRC continues to experience violence committed by other armed groups including the Democratic Forces for the Liberation of Rwanda and Mai Mai groups. In the most recent national elections, held in November 2011, disputed results allowed Joseph KABILA to be reelected to the presidency.



Section 2 - Anti – Money Laundering / Terrorist Financing

FATF status

The Democratic Republic of Congo is not on the FATF List of Countries that have been identified as having strategic AML deficiencies

Compliance with FATF Recommendations

The Democratic Republic of Congo has not yet undertaken a Mutual Evaluation Report

25 July 2013 - IMF Report: Democratic Republic of the Congo: Poverty Reduction Strategy Paper

Extract: -

'As part of the fight against money laundering, Government is aware of the undoubted potential of the country to serve as a platform for money laundering and terrorist financing, because of its under-developed banking sector and dominant informal nature of its economy. Even if this is not yet demonstrated, there is certainly a high potential for this plague to destroy the business environment of the country. It is within this context that Government has adopted a national strategy to fight against corruption, money laundering and organized crime since November 2002. A national Financial Intelligence Unit (CENAREF) was established to collect and process financial information on money laundering channels and the financing of terrorism. The aim is to strengthen republican institutions for optimal functioning of democracy. This strategy is based on prevention, awareness raising and moralization, the reform of public institutions, terms of repression as well as strengthening of the partnership between the public sector, private sector, civil society and the international community. Government undertakes to implement this strategy following an approach that will both be educative (sensitization of different stakeholders in the fight on principles of prevention), fiscal (development of appropriate fiscal measures) and repressive (sanctions in proven cases).

US Department of State Money Laundering assessment (INCSR)

The Democratic Republic of Congo was deemed a 'Monitored' Jurisdiction by the US Department of State 2016 International Narcotics Control Strategy Report (INCSR).

Key Findings from the report are as follows: -

Perceived Risks:

The Democratic Republic of the Congo (DRC) is not considered an important regional financial center. Nevertheless, its porous borders, weak law enforcement, inadequate judicial system, dollarized economy, and dominant informal sector put the country and its financial system at risk of abuse by criminals seeking to launder money or finance terrorism. The DRC covers 2.4 million square kilometers and has 7,000 kilometers of often porous borders with nine countries. State authority and administration are weak because of the country's vast territory and dilapidated infrastructure, among other challenges. Most economic activity in the DRC takes place in the informal sector, estimated to be up to ten times the size of the formal sector, with many transactions, even those of legitimate businesses, carried out in cash (often in U.S. dollars). Its parallel foreign exchange market is large and tolerated by the government.

Inefficient and burdensome customs and tax policies and chronically low public sector salaries encourage a climate of bribery and clandestine transactions, especially in import/export activities and mineral exploitation and sales. Gold, diamonds, and other minerals have long been extensively mined in and sometimes smuggled out of the DRC. Casinos and smuggling of gold, diamonds, and weapons are sources of illicit revenues. Customs and tax fraud, tax evasion, misappropriation of public funds, endemic corruption throughout all sectors of society, sale of prohibited products and services, and a history of state expropriations undercut development of a healthy commercial climate. The DRC does not have any free ports or areas designated as free trade zones.

Certain Congolese and foreign individuals and armed groups contributing to the conflict in the DRC are subject to UN, U.S., and EU sanctions, including an arms embargo that applies to all nongovernmental entities and individuals operating in the DRC. There are travel bans and asset freeze orders against certain members of militia and rebel groups.

DO FINANCIAL INSTITUTIONS ENGAGE IN CURRENCY TRANSACTIONS RELATED TO INTERNATIONAL NARCOTICS TRAFFICKING THAT INCLUDE SIGNIFICANT AMOUNTS OF US CURRENCY; CURRENCY DERIVED FROM ILLEGAL SALES IN THE U.S.; OR ILLEGAL DRUG SALES THAT OTHERWISE SIGNIFICANTLY AFFECT THE U.S.: NO

CRIMINALIZATION OF MONEY LAUNDERING:

"All serious crimes" approach or "list" approach to predicate crimes: All serious crimes

Are legal persons covered: criminally: YES civilly: YES

KNOW-YOUR-CUSTOMER (KYC) RULES:

Enhanced due diligence procedures for PEPs: Foreign: YES Domestic: YES KYC

covered entities: Congolese Central Bank, banks, credit institutions, money transfer institutions, financial companies, microfinance institutions, money exchangers, insurance companies, leasing companies, financial intermediaries, postal checking systems, transferable securities and stock exchange market operations, gaming companies, notaries, independent legal advisors, real estate agencies, funds conveyors, travel agencies, auditors, accountants, tax consultants, and sellers of works of art, antiques, and precious stones

REPORTING REQUIREMENTS:

Number of STRs received and time frame: 102 in 2014

Number of CTRs received and time frame: Not available

STR covered entities: Congolese Central Bank, banks, credit institutions, money transfer institutions, financial companies, microfinance institutions, money exchangers, insurance companies, leasing companies, financial intermediaries, postal checking systems, transferable securities and stock exchange market operations, gaming companies, notaries, independent legal advisors, real estate agencies, funds conveyors, travel agencies, auditors, accountants, tax consultants, and sellers of works of art, antiques, and precious stones

MONEY LAUNDERING CRIMINAL PROSECUTIONS/CONVICTIONS:

Prosecutions: 0 in 2014

Convictions: 0 in 2014

RECORDS EXCHANGE MECHANISM:

With U.S.: MLAT: NO Other mechanism: YES

With other governments/jurisdictions: YES

The DRC is not a member of a FATF-style regional body (FSRB).

ENFORCEMENT AND IMPLEMENTATION ISSUES AND COMMENTS:

DRC's 2014 readmission to the Extractive Industries Transparency Initiative (EITI), and assistance from the international community in setting up extractives tracing schemes have gone some way toward regulating the metal and diamond sectors. Its 2014 decision to join the Organization for Harmonization of Business Laws in Africa (OHADA) may give investors new protections and recourses in cases where the local judicial sector cannot guarantee rule of law.

The National Financial Intelligence Unit (CENAREF), the DRC's financial intelligence unit, conducts periodic studies and advises the Government of the DRC on how to advance its AML/CFT regime. There is a strong perception that CENAREF is not empowered to investigate businesses and transactions if such investigations might adversely impact the economic interests of high-level Congolese officials and ruling elites. The organization collaborates very closely with Belgian and French counterpart financial investigation units. CENAREF has also long expressed interest in increasing bilateral cooperation with the United States.

Limited resources hamper the DRC's ability to enforce AML laws and regulations, and local institutions and personnel lack training and capacity. A weak judicial system also impedes enforcement of AML regulations.

The DRC acceded to the UN Convention against Corruption in 2010 and to the UN Convention against Transnational Organized Crime in 2005.

The DRC should pursue membership in a FSRB and should work to build the capacity of its supervisory and enforcement entities.

Current Weaknesses in Government Legislation (2013 INCRS Comparative Tables):

According to the US State Department, The Democratic Republic of Congo does not conform with regard to the following government legislation: -

States Party to United Nations Transnational Organised Crime Convention - States party to the United Nations Convention against Transnational Organized Crime (UNTOC), or a territorial entity to which the application of the Convention has been extended by a party to the Convention.

States Party to United Nations Convention Against Corruption - States party to the United Nations Convention against Corruption (UNCAC), or a territorial entity to which the application of the Convention has been extended by a party to the Convention.

EU White list of Equivalent Jurisdictions

The Democratic Republic of Congo is not currently on the EU White list of Equivalent Jurisdictions

World Governance indicators

[To view historic Governance Indicators Ctrl + Click here and then select country](#)

Failed States Index

[To view Failed States Index Ctrl + Click here](#)

Offshore Financial Centre

The Democratic Republic of Congo is not considered to be an Offshore Financial Centre

US State Dept Narcotics Report 2011:

Marijuana is grown throughout the DRC, as it is throughout the region, but consumption of DRC's domestic marijuana is largely confined to the domestic market. There are no available statistics concerning acreage or yield in the country. There is no coca or opium production in the DRC. No evidence exists to determine that any controlled substances are manufactured in the DRC. Although known bulk shipments of pseudoephedrine entering the country could be an indicator that methamphetamine is being produced, more likely the shipments are diverted for production of meth elsewhere. There is no sizable methamphetamine user population in the DRC.

The three major DRC transit points for illegal drugs are the Ndjili International Airport at Kinshasa, the major seaport of Matadi, and the ferry crossing between Brazzaville, Congo and Kinshasa, DRC. Traffickers in the DRC are involved in the transshipment of drugs from the DRC to several countries in Europe. Couriers transiting through the DRC have been arrested with significant quantities of heroin, cannabis and cocaine in several west European countries and Canada. Significant seized shipments of pseudoephedrine into the DRC have been identified as diversions headed for the illicit methamphetamine market.

Funding for drug awareness training, demand reduction and treatment is scarce in the DRC. Congolese authorities believe that the use of marijuana, as well as abuse of licit drugs such as amphetamines and tranquilizers, has increased steadily over past years. The government does not maintain accurate statistics on drug abuse, and thus, the extent of the problem is unknown. Marijuana is widely used in the DRC, as it is throughout sub-Saharan Africa.

Cocaine and heroin abuse is most likely confined to the capital, Kinshasa, as well as some areas that have expatriate communities, such as Goma. Eastern areas of the country are the loci for the highest demand for cocaine and heroin. Congolese use of cocaine and heroin is cost prohibitive so it is possible that UN peacekeepers and other expatriate residents of the Eastern Congo are among those abusing these drugs.

The DRC continues to operate with antiquated drug laws and regulations. Marijuana regulations and laws were enacted in 1917, based on The Hague Convention of 1903. Laws and regulations controlling other narcotics were enacted in 1927 based on The Hague Conventions of 1912 and 1925. The Belgium Convention of 1941 is also still in force. Laws and regulations used to control the production and trafficking of opium were enacted in 1958 based on the international protocol of 1953. The DRC has signed on to the Rome Statute regarding the surrender of persons to the International Criminal Court, which entered into force in July 2003. The DRC is a party to the 1988 UN Drug Convention.

Drug enforcement efforts, however, are largely opaque in the DRC, and local police and customs officials are underpaid, undertrained and generally ineffective. Corruption, at various levels, possibly facilitates a wide range of criminal activity, to include drug trafficking. The DRC does not encourage or facilitate illicit production or distribution of narcotic drugs and psychotropic substances, nor does it encourage or facilitate the laundering of proceeds from illegal drug transactions. There is also no proof that senior officials engage in drug

trafficking, certainly not in an official capacity. However, corruption in conjunction with narcotics trafficking is thought to be widespread, possibly reaching into the highest levels of the government.

Narcotics control is not a priority in the DRC. Relative to neighboring African nations, drug enforcement in the DRC suffers from a lack of resources and training. Law enforcement officials in the DRC are not capable of conducting traditional drug enforcement investigations. The effectiveness of host government counter-narcotics efforts therefore is greatly reduced by the lack of expertise, training, equipment, and funding.

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The DRC cooperates very little with its neighboring countries concerning counter drug operations. Officials from the DRC did attend the most recent United Nations Office of Drugs and Crime (UNODC) Heads of Narcotics and Law Enforcement Agencies (HONLEA) conference held in Windhoek, Namibia in October 2009. For the present, other problems in the DRC seem logically more urgent than drug abuse or trafficking, but drug abuse is growing, so the government will need to be wary of this development.

US State Dept Trafficking in Persons Report 2014 (introduction):

The Democratic Republic of the Congo is classified a Tier 3 country - a country whose government does not fully comply with the minimum standards and is not making significant efforts to do so.

The Democratic Republic of the Congo (DRC) is a source, destination, and possibly a transit country for men, women, and children subjected to forced labor and sex trafficking. The majority of this trafficking is internal, and while much of it is perpetrated by armed groups and rogue elements of government forces outside government control in the country's unstable eastern provinces, incidents of trafficking likely occurred throughout all 11 provinces. A significant number of men and boys working as unlicensed Congolese artisanal miners are reported to be exploited in situations of debt bondage by businesspeople and supply dealers from whom they acquire cash advances, tools, food, and other provisions at inflated prices and excessively high interest rates. The miners are forced to continue working to pay off constantly accumulating debts that are virtually impossible to repay, and some miners inherit the debt of deceased family members. During the year, in North Kivu, South Kivu, Orientale, and Katanga provinces, armed groups such as the Democratic Forces for the Liberation of Rwanda (FDLR), Mai Mai Kata Katanga and Mai Mai Morgan, and M23, as well as elements of the Congolese national army (FARDC), routinely used threats and coercion to force men and children to mine for minerals, turn over their mineral production, pay illegal "taxes," or carry looted goods from mining villages.

Children are engaged in forced and exploitative labor in agriculture, informal mining, and other informal sectors. A significant number of children in Katanga, Eastern Kasai, Western Kasai, North Kivu, South Kivu, and Orientale are exploited in artisanal mining. NGOs reported that in Nyamurhale (North Kivu), FARDC soldiers force children to transport or grind sand and rocks. Children living on the streets who engage in vending are vulnerable to forced labor, and many of the girls are exploited in sex trafficking. Children laboring as domestic servants work long hours and are vulnerable to abuse and exploitation. Some Congolese women are forcibly prostituted in brothels or informal camps, including in markets, bars, and bistros in mining areas by loosely organized networks, gangs, and brothel operators. Some girls in Bas-Congo province are coerced into prostitution by family members or transported to Angola and placed into the sex trade. Some Congolese women and girls are subjected to forced marriage by kidnapping or rape, or are sold by family members for a dowry or relief of a debt, which obligates the women against their will to provide labor without compensation and with no ability to leave.

Congolese women and children migrate to Angola, South Africa, Republic of the Congo, and South Sudan, as well as East Africa, the Middle East, and Europe, where some are exploited in sex trafficking, domestic servitude, or forced labor in agriculture and diamond mines. Some Congolese migrants in Bandundu and Bas-Congo provinces are lured to Angola by the promise of employment and, upon arrival, subjected to forced labor in diamond mines or forced into prostitution. Children from the Republic of the Congo may transit through the DRC en route to Angola or South Africa, where they are subjected to domestic servitude. Local observers suspect that some homeless children known as chegués who act as beggars and thieves on the streets of Kinshasa are controlled by a third-party. In previous years, Chinese women and girls in Kinshasa were reportedly subjected to sex trafficking in Chinese-owned massage facilities. Some members of Batwa, or pygmy groups, are subjected to conditions of forced labor, most commonly in agriculture, but also in mining and domestic service in remote areas of the DRC. Some Angolans enter the DRC illegally to work in Bas Congo province and are vulnerable to forced labor and exploitation.

The UN reported that indigenous and foreign armed groups, such as the FDLR, various local militias (Mai-Mai), Nyatura, Force for the Defense of Human Rights (FDDH), the Allied Democratic Forces, M23, Bakata Katanga, and the Lord's Resistance Army (LRA), continued to abduct and forcibly recruit Congolese men, women, and children, as young as 8-years-old, to bolster their ranks and serve as bodyguards, laborers, porters, domestic workers, combatants, and sex slaves. Some children were also forced to commit crimes for their captors, such as looting. The LRA continued to abduct Congolese citizens, including children, in and near Orientale province; some of these abductees were later taken to Sudan, South Sudan, and the Central African Republic (CAR). Likewise, abducted South Sudanese, Ugandan, and CAR citizens experienced conditions of forced labor and sexual servitude at the hands of the LRA after being forcibly taken to the DRC. In part due to weak command and control structures, some FARDC elements have deviated from government policy and recruited, at times through force, men and children for use as combatants, escorts, and porters. They reportedly pressed men, women, and children, including internally displaced persons and prisoners, into forced labor to carry supplies and looted goods, serve as guides and domestic laborers, mine for minerals, or construct military facilities. In addition, it was reported that, contrary to government policy, some FARDC commanders and troops provided logistical support, arms, and ammunition for armed groups, including FDLR, Mai Mai Morgan, and Mai Mai Kata Katanga, which routinely engaged in human trafficking. Due to

the ongoing conflict, more than 2.9 million people were displaced in DRC, and displaced persons in Katanga, North Kivu, and South Kivu provinces are particularly vulnerable to abduction, forced conscription, and sexual violence by armed groups and government forces.

The UN documented 1,023 cases of children who were both recruited and separated from armed groups in 2013; 113 of these children were from the FARDC, 270 were from the Mai Mai Nyatura, 68 from the FDDH, 38 were from M23, and the remainder—including 355 from various Mai-Mai groups—were from other Congolese and foreign armed groups. Of these children, 299 were identified as combatants during their time with armed groups, and most children were used in multiple capacities such as cook, porter, sex slave, and/or laborer. Children recruited by armed groups have been identified from every province in DRC and neighboring countries, including Uganda, Rwanda, CAR, and Sudan. There were reports that police, Congolese military officers, and members of armed groups in eastern DRC arrested people arbitrarily to extort money and sometimes forced them into work if they could not otherwise pay.

The Government of the Democratic Republic of the Congo does not fully comply with the minimum standards for the elimination of trafficking and is not making significant efforts to do so. During the year, the government took steps to implement a UN-backed action plan to end abuses against children by its armed forces, including the recruitment and use of child soldiers, by conducting national working group meetings to oversee implementation of the action plan, issuing two directives to military and intelligence commanders aimed at deterring the recruitment and use of child soldiers and transferring of identified child soldiers to social service organizations, and cooperating with international organizations in the demobilization of children from armed forces. The government investigated three cases of transnational sex trafficking and identified five victims in these cases, but did not report providing protection services or referring them to NGOs for assistance services. The government did not prosecute or convict anyone for committing any form of trafficking, including trafficking crimes involving child soldiers. At times, the government detained, mistreated, and interrogated children apprehended from armed groups.

US State Dept Terrorism Report 2013

Overview: Despite the limited threat of violent Islamist extremism in the Democratic Republic of the Congo (DRC), the government has indicated serious concern about the threat of terrorism spreading throughout the region and has responded adequately to concerns. The DRC is a vast country bordered by nine neighbors; the Government of the DRC lacks complete control over some areas of its territory, especially in the East where various armed groups operate.

The three principal foreign armed groups operating in the DRC and posing a threat to security and stability are a Ugandan group called the Allied Democratic Forces (ADF), the Democratic Forces for the Liberation of Rwanda (known by its French acronym as FDLR), and the Lord's Resistance Army (LRA). For most of 2013, the M23 was the deadliest armed group in the East, assassinating local leaders and killing and otherwise intimidating civilians. The M23 was militarily defeated in November of 2013 by the Congolese military, with UN peacekeeping support. While no longer the military threat to the Rwandan government it

once was, the FDLR contributed to the destabilization of the eastern DRC through its atrocities against the local civilian population and residual potential for small-scale attacks inside Rwanda.

2013 Terrorist Incidents: Following a decrease in ADF attacks in 2012 and 2013 during the M23 rebellion, on December 13 and 14, the ADF reportedly killed 21 civilians in Beni Territory, North Kivu by hacking and beheading them with machetes. The ADF is also believed to be responsible for similar attacks on civilians in the same area, primarily women and children, in November. The Government of the DRC remains very concerned about the activities of this group and initiated a military campaign against it in late 2013.

The UN Office for the Coordination of Humanitarian Affairs reported 164 presumed LRA attacks in 2013 in the DRC, resulting in 37 deaths and 180 abductions.

Legislation, Law Enforcement, and Border Security: The DRC has no comprehensive counterterrorism legislation, but a 2001 presidential decree established a National Committee for the Coordination of Anti-International Terrorism within a counterterrorism office in its Ministry of Interior. The DRC President identified the elimination of the ADF, FDLR, Burundian National Front, and the LRA as the highest security priorities following the end of the M23 rebellion in November. The DRC government has made statements indicating that denying safe haven to the LRA remains a matter of great importance and has contributed to international efforts to eradicate the LRA in the DRC, notably by dedicating 400 FARDC troops to the AU-Regional Task Force.

The DRC government lacks the resources to detect, deter, and prevent acts of terrorism outside of narrow, small scale attacks in the eastern DRC. The national police and the intelligence services are identified as the primary lines of defense against terrorism under 2011 foundational legislation restructuring security services in the DRC.

The DRC government made some progress on its border security management program through training funded by the UN Stabilization Mission in the Congo and the international community in personal identification and recognition systems, border patrolling, and investigative procedures.

The DRC government has shown political will to cooperate with the U.S. on counterterrorism efforts despite a lack of resources.

Though threat of violent Islamist extremism in the country is limited, the government has shown the political will and ability to respond to the small-scale, localized threats that occurred in 2013. The government's response, however, focused on military action rather than law enforcement, and weaknesses in border security allowed illicit crossing of people and goods.

Countering the Financing of Terrorism: The DRC is not a member of any Financial Action Task Force-style regional body. In 2011, the DRC signed a mutual assistance agreement with Belgium's CTIF (Cellule des Traitements des Informations Financières).

The Democratic Republic of Congo (DRC) has legislation criminalizing money laundering and terrorist financing, as well as a financial intelligence unit (CENAREF). Many banks installed

new computerized communications and accounting networks, which made it easier to trace formal financial transactions. Limited resources and a weak judicial system hampered the government's ability to enforce anti-money laundering regulations, however, and local institutions and personnel lacked the training and capacity to enforce the law and its attendant regulations fully.

The DRC is home to a large Lebanese expatriate community, some of whom ran businesses reportedly linked to Hizballah funding. CENAREF received 145 suspicious transaction reports in 2013. CENAREF had 161 files for which the collection of information is continuing. CENAREF has also received 96 cases from other institutions or other sources. In 2013, the Government of the DRC had two money laundering convictions, which are a good reflection of the country's ability to tackle illicit financial flows.

Arms

The UN adopted [Resolution 1493](#) on 28 July 2003. This imposed an arms embargo on Congolese armed groups and militias. This UN arms embargo has subsequently been extended, renewed and modified, specifically by [Resolution 1596](#) on 18 April 2005. The embargo covers the direct or indirect supply, sale or transfer of arms and related material or training assistance to groups operating in the DRC. The current UN resolution is [Resolution 1807 \(2008\)](#) which has been renewed every year.

The EU originally agreed to impose an arms embargo on the DRC (then Zaire) on 7 April 1993. This legislation is titled [Common Position 2002/829/CFSP](#). The original legislation has since been repealed and replaced by [Common Position 2005/440/CFSP](#) and [Common Position 2007/654/CFSP](#) (which integrated various EU and UN measures) and associated regulations. The arms embargo has been extended, renewed and modified.

The most recent modifications to the regulations were made in 2008 by [Council Common Position 2008/369/CFSP](#) and [Council Regulation \(EC\) 666/2008](#).

Financial

In 2005 the [UN Security Council](#) imposed an assets freeze and travel restrictions on persons acting in violation of the UN arms embargo imposed 2003. Subsequent Resolutions extended the scope of the restrictions to political and military leaders of foreign armed groups operating in the DRC, or Congolese militias receiving support from abroad that impede the participation of their combatants in disarmament, demobilization and reintegration processes; and those recruiting or using children in armed conflict; violating international law involving the targeting of children or women in situations of armed conflict; obstructing the access to or the distribution of humanitarian assistance in the eastern part of the DRC; and supporting the illegal armed groups in that area through the illicit trade of natural resources.

Current EU regulations

- [05.01.2012 Commission Implementing Regulation \(EU\) No 7/2012](#) Amended Annex I to Regulation 1183/2005.
- [25.10.2011 Commission Implementing Regulation \(EU\) No 1097/2011](#) Amended Annex I to Regulation 1183/2005.
- [22.12.2010 Commission Regulation \(EU\) No 1250/2010](#) Amended Annex I to Regulation 1183/2005.
- [20.03.2009 Commission Regulation \(EC\) No 242/2009](#) Amended Annex I to Regulation 1183/2005.
- [20.09.2007 Commission Regulation \(EC\) No 1096/2007](#) Amended Annex I to Regulation 1183/2005.
- [03.08.2007 Commission Regulation \(EC\) No 933/2007](#) Amended Annex I to Regulation 1183/2005.
- [12.04.2007 Commission Regulation \(EC\) No 400/2007](#) Amended Annex I to Regulation 1183/2005.

- [23.02.2007 Commission Regulation \(EC\) No 201/2007](#) Amended Annex I to Regulation 1183/2005.
- [18.01.2006 Commission Regulation \(EC\) No 84/2006](#) Amended Annex I to Regulation 1183/2005.
- [09.11.2005 Commission Regulation \(EC\) No 1824/2005](#) Amended Annex I to Regulation 1183/2005.
- [18.07.2005 Council Regulation \(EC\) No 1183/2005](#) Implemented the travel and financial restrictions in UNSCR 1596 (2005).

US Sanctions

Current DRC sanctions block the property and interests in property of persons listed in the Annex to E.O. 13413 (the "Annex") as well as specific individuals and entities determined by the Secretary of the Treasury, after consultation with the Secretary of State:

- To be a political or military leader of a foreign armed group operating in the DRC that impedes the disarmament, repatriation, or resettlement of combatants;
- To be a political or military leader of a Congolese armed group that impedes the disarmament, demobilization, or reintegration of combatants;
- To be a political or military leader recruiting or using children in armed conflict in the DRC in violation of applicable international law;
- To have committed serious violations of international law involving the targeting of children in situations of armed conflict in the DRC, including killing and maiming, sexual violence, abduction, and forced displacement;
- To have directly or indirectly supplied, sold, or transferred to the DRC, or been the recipient in the territory of the DRC, of arms or related materiel, including military aircraft and equipment, or advice, training, or assistance, including financing and financial assistance, related to military activities;
- To have materially assisted, sponsored, or provided financial, material, or technological support for, or goods and services in support of, any of the activities listed above or any person listed in or designated pursuant to E.O. 13413;
- To be owned or controlled by, or acting or purporting to act for or on behalf of, directly or indirectly, any person listed in or designated pursuant to E.O. 13413.

Bribery & Corruption

Index	Rating (100-Good / 0-Bad)
Transparency International Corruption Index	21
World Governance Indicator – Control of Corruption	9

Corruption and Government Transparency - Report by US State Department

U.S. and domestic businesses routinely cite corruption as a principal constraint to doing business in the DRC. In principle, there are laws that punish corruption, for both offering and accepting bribes. The GDRC has recently made some progress on corruption; however bribery is still routine in public and private business transactions, especially in the areas of government procurement, dispute settlement, and taxation. The DRC was ranked 154 out of 177 nations on Transparency International's 2013 Corruption Perception Index.

The DRC is not a signatory to the UN Anti-Corruption Convention. However, the DRC did pass its own anti-corruption law in 2004. Additional legislation includes the 2004 Money Laundering Act, under which the DRC cooperates with African and European crime-fighting organizations. The DRC is not a signatory of the OECD Convention on Combating Bribery. In September 2007, the DRC ratified the protocol agreement with SADC (Southern African Development Community) on Fighting Corruption. The GDRC is also preparing to ratify the African Union Convention on the Prevention and Fighting of Corruption.

Corruption, including bribery, raises the costs and risks of doing business. According to a report published in 2012, corruption adds approximately 30-40 % to the cost of transactions in the DRC, compared approximately 10-30% in neighboring countries.

The U.S. Government seeks to level the global playing field for U.S. businesses by encouraging other countries to take steps to criminalize their own companies' acts of corruption, including bribery of foreign public officials, by requiring them to uphold their obligations under relevant international conventions. A U. S. firm that believes a competitor is seeking to use bribery of a foreign public official to secure a contract should bring this to the attention of appropriate U.S. government officials, including local embassy personnel and through the Department of Commerce Trade Compliance Center "Report A Trade Barrier" website at http://tcc.export.gov/Report_a_Barrier/index.asp.

In 1977, the United States enacted the Foreign Corrupt Practices Act (FCPA), which makes it unlawful for a U.S. person, and certain foreign issuers of securities, to make a corrupt payment to foreign public officials for the purpose of obtaining or retaining business for or with, or directing business to, any person. The FCPA also applies to foreign firms and persons who take any act in furtherance of such a corrupt payment while in the United States. For

more detailed information on the FCPA, see the FCPA Lay-Person's Guide at:
<http://www.justice.gov/criminal/fraud/fcpa/>.

Section 3 - Economy

The economy of the Democratic Republic of the Congo - a nation endowed with vast natural resource wealth - is slowly recovering after decades of decline. Systemic corruption since independence in 1960, combined with country-wide instability and conflict that began in the mid-90s has dramatically reduced national output and government revenue and increased external debt. With the installation of a transitional government in 2003 after peace accords, economic conditions slowly began to improve as the transitional government reopened relations with international financial institutions and international donors, and President KABILA began implementing reforms. Progress has been slow to reach the interior of the country although clear changes are evident in Kinshasa and Lubumbashi. An uncertain legal framework, corruption, and a lack of transparency in government policy are long-term problems for the mining sector and for the economy as a whole. Much economic activity still occurs in the informal sector and is not reflected in GDP data. Renewed activity in the mining sector, the source of most export income, has boosted Kinshasa's fiscal position and GDP growth in recent years. The global recession cut economic growth in 2009 to less than half its 2008 level, but growth returned to around 7% per year in 2010-12. The DRC signed a Poverty Reduction and Growth Facility with the IMF in 2009 and received \$12 billion in multilateral and bilateral debt relief in 2010, but the IMF at the end of 2012 suspended the last three payments under the loan facility - worth \$240 million - because of concerns about the lack of transparency in mining contracts. In 2012, the DRC updated its business laws by adhering to OHADA, the Organization for the Harmonization of Business Law in Africa. The country marked its tenth consecutive year of positive economic expansion in 2012.

Agriculture - products:

coffee, sugar, palm oil, rubber, tea, cotton, cocoa, quinine, cassava (manioc), bananas, plantains, peanuts, root crops, corn, fruits; wood products

Industries:

mining (copper, cobalt, gold, diamonds, coltan, zinc, tin, tungsten), mineral processing, consumer products (textiles, plastics, footwear, cigarettes), metal products, processed foods and beverages, timber, cement, commercial ship repair

Exports - commodities:

diamonds, copper, gold, cobalt, wood products, crude oil, coffee

Exports - partners:

China 53.4%, Zambia 24.5%, Belgium 5.6% (2012)

Imports - commodities:

foodstuffs, mining and other machinery, transport equipment, fuels

Imports - partners:

South Africa 21.4%, China 15.1%, Belgium 7.9%, Zambia 7.5%, Zimbabwe 6.1%, Kenya 5.1%, France 4.9% (2012)

Banking

The DRC's banking system is comprised of the Central Bank and 21 commercial banks as well as savings/credit cooperatives, microfinance institutions, and financial transfer services. A postal checking system and several credit cooperatives exist, but most of these institutions do not function well, if at all. The vast majority of commercial bank activity in the DRC is focused on short-term credit, which is offered to a restricted number of private enterprises, exchange market operations and export-import services.

Many DRC banks are technically insolvent, and the sector plays only a minor role in financial intermediation. During the 1990s the functioning of the banking system was severely reduced due to hyperinflation, decreased economic activity, the collapse of state-owned financial institutions, and the reckless use of the Central Bank to finance deficit spending. The collapse of the formal economy and the increased use of informal markets further reduced the demand for traditional banking services. Savings dried up and highly negative real interest rates eroded the deposit base. Lack of basic infrastructure hinders banking operations in many areas of the country.

Although the liquidity crisis of the post-war years has largely ended, cash hoarding continues. Private individuals rarely entrust their money to banks; most deposits are from commercial clients. Individuals prefer to deal with microfinance institutions rather than commercial banks. Most business ventures in DRC are privately financed. Bank oversight is minimal, and the legal framework is inadequate, particularly concerning debt recovery and collateral issues. The foreign exchange market is the principal functioning financial market in the DRC.

At present, many of the DRC's commercial banks do not require the payment of service fees to open bank accounts. Most banks require individuals and companies to have a minimum deposit of up to \$100. Some banks work with only companies and institutions, and require a minimum deposit of \$2,500 to open a bank account.

Stock Exchange

The Democratic Republic of Congo is one of the few African countries that do not have a stock exchange.

EXECUTIVE SUMMARY

The Government of the Democratic Republic of the Congo (GDRC) has repeatedly cited attracting foreign investment as one of its highest priorities, yet the country remains a very difficult environment for investors. The GDRC is justifiably proud of achieving macroeconomic stability in recent years however reforms to improve the business climate have stalled. The economic outlook for the medium term remains generally positive although there are concerns the Congolese economy and budget are overly dependent on global commodity prices. The DRC rebounded remarkably well from the global financial crisis thanks to improved fiscal policy, high global commodity prices and the largest debt forgiveness in history. The DRC averaged 6% annual growth over the last decade, including 8.5% GDP growth in 2013. Despite this recent growth the DRC has the world's lowest gross national income per capita, it also ranks last in the UN Human Development Index, and near the bottom in business climate, hunger and many other indices. Businesses in the DRC face numerous challenges, including little functional infrastructure, endemic corruption at all levels of government, dysfunctional institutions, predatory tax agencies, little access to finance, shortage of skilled labor, unenforceable contracts, a high crime rate, an unpredictable security environment, and ongoing armed conflicts in the eastern part of the country. The Embassy strongly urges all prospective investors to visit www.travel.state.gov to read the latest country-specific information and travel warning before traveling to the DRC.

Despite these difficulties, the DRC's abundant resources, a decade of positive economic growth and increased investment in infrastructure offer opportunities for American businesses, particularly those with experience in similar business environments. Mining is the Congo's dominant revenue generator, with the DRC estimated to hold mineral reserves worth over \$24 trillion. Sales from the mining sector were estimated at over \$8 billion in 2012 and there remains significant room for growth in mining and related products or services, despite a severe electricity shortage and little transport infrastructure. Additional opportunities exist in agricultural, construction and heavy equipment (including used and reconditioned equipment), transportation, energy, engineering, and consumer goods.

The U.S. Financial Reform Act (Dodd-Frank) requires companies whose products contain tin, tantalum, tungsten or gold to disclose to U.S. regulators whether they are sourcing these materials from the DRC or its neighbors. They must also document their due diligence to ensure that their sourcing arrangements are not benefiting armed groups. The State Department and USAID have worked with the private sector, the GDRC, civil society, and international partners to develop pilot supply chains of artisanal-mined conflict-free minerals out of the eastern Congo. The Congolese Army's victory against the M 23 rebels and the conclusion of a regional peace agreement in Addis Ababa have focused the GDRC on eliminating other armed groups and encouraging economic development in the eastern DRC.

1. OPENNESS TO, AND RESTRICTIONS UPON, FOREIGN INVESTMENT

The GDRC has prioritized attracting foreign investment; however its efforts to improve economic governance and the business climate have stalled. Congolese investment regulations prohibit foreign investors from engaging in small retail commerce and ban

foreign majority-ownership of agricultural firms. Visas for foreign workers are limited to three months at a time. After the approval of a work permit, they may qualify for an establishment visa, which is more expensive but valid for up to a year. Expatriate salaries are also taxed at a higher rate than those of locals. Foreign investors, like local businesses, face frequent harassment, demands for bribes, and subjective, predatory interpretation of regulatory and taxation policies. Most foreign direct investments are governed by the Investment Code of February 2002. The mining, hydrocarbons, finance and other sectors are governed by sector-specific investment laws. The DRC will officially join the Organization for the Harmonization of Business Laws in Africa (OHADA) in September 2014.

In 2002, the GDRC created the National Agency for Investment Promotion (ANAPI) to overcome hurdles and to simplify and facilitate investment. ANAPI's mandate is to simplify the investment process, make procedures more transparent, assist new foreign investors, and improve the image of the DRC as an investment destination.

With support from international donors, the GDRC is also working to implement a series of reforms aimed at improving the business climate. Specifically, in August 2009, the GDRC launched the Steering Committee for the Improvement of Business and Investment Climate (CPCAI) under the Ministry of Plan with the goal of improving the GDRC's ranking on the World Bank's Doing Business report. The main objectives of CPCAI are to reduce red tape, decrease delays and the cost of establishing a business, improve transparency of procedures, and strengthen judicial security. CPCAI has achieved the elimination of 46 "zero-revenue" taxes among the 117 that were previously applied in cross-border trade. In April 2013, a one-stop window was created to simplify business creation, cut the processing time from five months to three days, reduce the number of formalities, and reduce fees from \$3000 to \$120 for forming a corporation. The one-stop window has sped-up business creation, but businesses continue to complain of corruption and the need to visit multiple ministries.

The Steering Committee for the Reform of Public Enterprises (COPIREP), funded by the World Bank but falling under the Ministry of Portfolio, seeks foreign investors to enter into public-private partnerships (PPPs) with Congolese state-owned companies. However restructuring approximately 60 Congolese parastatals, none of which were profitable, has stalled. The parastatals not yet restructured include the national power utility (SNEL), port and river authority (SCTP), and rail company (SNCC).

Broadly, there are no formal limits or screening mechanisms imposed upon foreign ownership of most businesses in the DRC. However, the processes of granting permits and licenses in the mining and telecommunication sectors often suffer from arbitrariness, lack of transparency, and corruption. Investment projects which benefit from Investment Code incentives must have an assessment completed by ANAPI agents every six months. All investors in the DRC face multiple audits by various government enforcement agencies seeking evidence of violations of tax laws or price controls. Foreigners and Congolese alike suffer the consequences of non-functional judicial institutions. Inadequate physical infrastructure – including internal land, river, and air transport, energy and social services – presents a serious challenge and additional cost for nearly all commercial operators in the DRC. International donors and a 2009 multi-billion dollar Sino-Congolese agreement have begun to provide critically needed resources for infrastructure development, but significant constraints remain.

One trend of note in recent years is the propagation of so-called "vulture fund" legal actions against the DRC government for recuperation of decades-old unpaid private debts owed by DRC parastatal companies. These legal actions have sought to sequester and redirect profits

and other payments owed by private multinational companies to DRC public enterprises through joint venture projects, including mining joint ventures. These “vulture fund” legal actions add uncertainty to the investment climate, especially for private multinational companies which are in joint ventures with DRC public enterprises.

The Democratic Republic of Congo (DRC) remains a highly challenging environment in which to conduct business. The DRC’s rich endowment of natural resources, large population and generally open trading system provide potential opportunities for U.S. investors.

The Millennium Challenge Corporation, a U.S. Government entity charged with delivering development grants to countries that have demonstrated a commitment to reform, produced scorecards for countries with a 2012 per capita gross national income (GNI) of \$4,085 or less. A list of countries/economies with MCC scorecards and links to those scorecards is available here: <http://www.mcc.gov/pages/selection/scorecards>. Details on each of the MCC’s indicators and a guide to reading the scorecards are available here: <http://www.mcc.gov/documents/reports/reference-2013001142401-fy14-guide-to-the-indicators.pdf>

Measure	Year	Rank or value	Website Address
TI Corruption Perceptions index	2013	154 of 177	http://cpi.transparency.org/cpi2013/results/
Heritage Foundation’s Economic Freedom index	2013	172 of 177	http://www.heritage.org/index/ranking
World Bank’s Doing Business Report “Ease of Doing Business”	2014	183 of 189	http://doingbusiness.org/rankings
Global Innovation Index	2013	N/A	http://www.globalinnovationindex.org/content.aspx?page=gii-full-report-2013#pdfopener
World Bank GNI per capita	2012	USD 230	http://data.worldbank.org/indicator/NY.GNP.PCAP.CD
MCC Government Effectiveness	2014	-0.74 (RED)	http://www.mcc.gov/pages/selection/scorecard

MCC Rule of Law	2014	-0.75 (RED)	http://www.mcc.gov/pages/selection/scorecards
MCC Control of Corruption	2014	-0.39 (RED)	http://www.mcc.gov/pages/selection/scorecards
MCC Trade Policy	2014	63.0 (RED)	http://www.mcc.gov/pages/selection/scorecards
MCC Regulatory Quality	2014	-0.76 (RED)	http://www.mcc.gov/pages/selection/scorecards
MCC Business Start Up	2014	0.658 (RED)	http://www.mcc.gov/pages/selection/scorecards
MCC Land Rights Access	2014	0.54 (RED)	http://www.mcc.gov/pages/selection/scorecards
MCC Natural Resource Mgmt	2014	59.9 (GREEN)	http://www.mcc.gov/pages/selection/scorecards
MCC Access to Credit	2014	18 (RED)	http://www.mcc.gov/pages/selection/scorecards
MCC Inflation	2014	2.1 (GREEN)	http://www.mcc.gov/pages/selection/scorecards
MCC Fiscal Policy	2014	1.0 (GREEN)	http://www.mcc.gov/pages/selection/scorecards
MCC Political Rights	2014	9 (RED)	http://www.mcc.gov/pages/selection/scorecards

2. CONVERSION AND TRANSFER POLICIES

The DRC adopted a free-floating exchange rate policy in 2001 as part of broader economic reforms. The DRC has also lifted restrictions on business transactions nationwide. International transfers of funds take place freely when sent through local commercial banks. The bank declaration requirement and payments for international transfers now take less than one week to complete, on average.

The Congolese Central Bank (BCC) is responsible for regulating foreign exchange and trade. The only currency restriction imposed on travelers is a USD 10,000 limit on the amount an individual can carry when entering or leaving the DRC. The GDRC also requires that the Central Bank license exporters and importers. The DRC's informal foreign exchange market is large and unregulated and offers exchange rates similar to the official rate. The DRC's economy remains highly dollarized. The largest banknote in circulation is the 20,000

Congolese franc (CDF) note (worth approximately USD 22), though it is very rare. Far more common are the 500 and 1000 franc notes worth approximately 54¢ and \$1.08, respectively. U.S. banknotes are readily accepted in all major transactions. Banks provide accounts denominated in either currency. The GDRC has begun the process of de-dollarizing the economy by requiring tax records be kept in CDF and tax payments from mining companies must be in CDF.

The Congolese franc depreciated by 35% against the U.S. dollar between December 2008 and September 2009, but the GDRC has since maintained a stable exchange rate. Inflation in 2012 (2.7%) and 2013 (1.07%) remained under the BCC's target of 4%. Although GDRC fiscal policy may loosen in the run-up to elections in 2015 and 2016, it is expected to continue prioritizing a stable exchange rate and low inflation. As of May 2014, the exchange rate was 925 CDF per dollar at the BCC, and 938 CDF per USD in the parallel market. The DRC finished 2013 with international reserves of USD 1,766,450,000, corresponding to 9.4 weeks of import cover.

The BCC is drafting a new strategic plan for 2014-2017, which will focus on four major axes: sustaining monetary stability, promoting financial system stability, developing the financial system, and financing the real economy.

3. EXPROPRIATION AND COMPENSATION

The DRC's land law allows for expropriation of property by the government for the sake of public interest, such as the protection of community heritage, completing public works (such as infrastructure projects) and the presence of precious minerals. The illegitimate acquisition of property is also grounds for expropriation. In any case of expropriation, the GDRC is required to offer fair compensation; as with many Congolese laws, these requirements are not always fully respected. Activities that have an impact on the environment, such as mining, energy and forestry are at greater risk for expropriation.

There have been no expropriation actions against U.S. citizens in the past year. Post is aware of a number of existing claims against the GDRC, some of which were taken to arbitration (see Dispute Settlement section below). Arbitration judgments against the GDRC, however, have not been paid in a timely manner, if at all.

4. DISPUTE SETTLEMENT

On paper, the DRC's official policies are satisfactory and even attractive to business, but in recent years they have often been inoperative in practice due to problems with the judicial system. Courts are marked by a high degree of corruption, public administration is not reliable, and both expatriates and nationals are subject to selective application of a complex legal code. Official channels often do not provide direct and transparent recourse in the event of property seizure, for which legal standing can rarely be determined. Seizures have been made via the police and/or military, often supported by questionable decisions from the courts. Foreign enterprises may have slightly better security of ownership due to the presence and intervention of their diplomatic missions. Many Congolese business contracts provide for external arbitration, but this is an expensive and time-consuming option with little value for resolving routine, day-to-day business problems.

The U.S.-DRC Bilateral Investment Treaty (BIT) provides for International Center for Settlement of Investment Disputes (ICSID) reconciliation or binding arbitration in the case of investment

disputes. In the case of a dispute between a U.S. investor and the GDRC, the investor is subject to the Congolese civil code and legal system. If parties cannot reach agreement, under the terms of the U.S.-DRC BIT, the dispute is taken to the ICSID or the Paris-based International Chamber of Commerce (ICC). A number of U.S. firms pursued claims against the GDRC for damages resulting from civil disturbances by military mutinies in 1991 and 1993. Two investors have won settlements from the ICSID. In early 2004, a claimant under the BIT won a settlement from ICSID but has not yet collected payment from the GDRC. The other investor, who successfully collected the compensation awarded by the ICSID, received damages in 1999. A third U.S. Company won a settlement from a Jersey, Channel Islands court in October 2010, but has not yet collected payment from the GDRC. The DRC is in the process of becoming a party to the New York Convention of 1958 on the Recognition and Enforcement of Foreign Arbitral Awards.

In 2008, the DRC established commercial courts in Kinshasa and Lubumbashi. These courts are led by professional judges specializing in commercial matters and exist in parallel with an otherwise inadequate judicial system. The DRC will officially join the Organization for the Harmonization of Business Laws in Africa (OHADA) in September 2014. The core purpose of OHADA is to promote economic development and integration between its members, as well as to ensure a secure commercial environment in Africa. OHADA members agree to adopt a common set of commercial laws – including contract, company and bankruptcy laws – and to submit interpretation of those laws to the final jurisdiction of the OHADA court, which sits in Abidjan, Cote d’Ivoire.

5. PERFORMANCE REQUIREMENTS AND INVESTMENT INCENTIVES

The DRC does not have any barriers specifically targeting or restricting U.S. trade or investment. There are, nevertheless, some non-tariff related barriers, including the multitude of taxes collected on imported goods by several government agencies and expensive, slow and burdensome customs procedures. The DRC has not maintained any measures that are inconsistent with the WTO’s Trade Related Investment Measures (TRIM) requirements. However the GDRC has signaled its intention to impose local content/sourcing requirements on foreign investors, particularly in the mining sector. Although there are no specific performance requirements for foreign investors, there are investment conditions that must be negotiated with ANAPI. The DRC has shortened this procedure to approximately 30 days, and has created a number of incentives to attract foreign investment. Negotiated incentives can range from tax breaks to duty exemptions, and are dependent upon the location and type of enterprise, the number of jobs created, the extent of training and promotion of local staff, and the export-producing potential of the operation. Investors who wish to take advantage of customs and tax incentives of the 2002 Investment Code must apply to ANAPI, who will in turn submit their applications to the Ministry of Finance and Ministry of Plan for approval. The Ministry of Labor controls expatriate residence and work permits. For U.S. companies, the BIT assures the right to hire staff of their choice to fill some management positions, but the companies agree to pay a special tax on expatriate salaries.

Performance requirements agreed upon initially with ANAPI include a timeframe for the investment, the use of Congolese accounting procedures and periodic authorized GDRC audits, the protection of the environment, periodic progress reports to ANAPI, and the maintenance of international and local norms for the provision of goods and services. The investor must also agree that all imported equipment and capital will remain in place for at least five years. There is no discriminatory or excessively onerous visa, residence or work

permit requirement designed to prevent or discourage foreigners from investing in the DRC, though corruption and bureaucracy can create delays in obtaining necessary permits. ANAPI and the Congolese Chamber of Commerce (FEC) play a vital role in addressing business issues in the DRC.

According to the terms of the Investment Code, the GDRC may require compliance with an investment agreement within 30 days of notification. Continued violations of an agreement may result in sanctions, including repayment of benefits received (such as tax exemptions) and eventual nullification of the agreement.

Foreign investors may bid on government contracts on the same terms as domestic investors. Foreign firms may even be favored in the bidding process because they can more easily access and present international insurance funding guarantees. There is no discrimination against U.S. or foreign firms in participating in government-sponsored or subsidized research and development programs, since participation is done on a national treatment basis. With the sponsorship and technical assistance of the World Bank, a tender board now works under the supervision of the Ministry of Budget. Normally, however, public companies and/or parastatals do not participate in the bidding process, due to the financing guarantees required beforehand. In addition, contracts are often negotiated directly with the GDRC, not through an international tender process, thus reducing transparency. Parliament passed a new procurement law in April 2010 and the GDRC has also adopted key implementing steps, institutions, and a manual of procedures to implement the new procurement law. The government said it would launch a public procurement website by December 2011, but it has not yet done so.

6. RIGHT TO PRIVATE OWNERSHIP AND ESTABLISHMENT

The DRC's Constitution (chapter 2, articles 34-40) protects private ownership without discrimination between foreign and domestic investors. It also protects investments against takeover, unless the investment conflicts with some overriding public interest. In this case, there are legal provisions for equitable and appropriate compensation for the parties involved. As with many Congolese laws, these requirements are not always fully respected.

Foreign investors can operate in the DRC either through establishing a branch or local subsidiary. The individual business may either be designated a "Société en Commodite Simple" (SNC), a "Société Privée à Responsabilité Limité (SPRL), a "Société par Actions à Responsabilité Limité (SARL), or a "Société Cooperative." The most common adopted forms of establishment are the SPRL and SARL, which are both limited liability companies. While in an SPRL shares are not freely negotiable, SARL shares are freely negotiable in principle, unless there are particular arrangements already within the SARL. Incorporation of an SARL requires a minimum of seven shareholders. Furthermore, incorporation of an SARL requires authorization of the Head of State. The Ministry of Justice is entitled to receive 1% of the original stock invested in the business by its founders. Some sectors, including mining, insurance, and banking, have different procedures for creating a company.

The GDRC has restricted some categories of small businesses to Congolese nationals. This includes artisanal production, small retail commerce, small public transport firms, small restaurants, and hotels with fewer than ten beds. Despite GDRC restrictions, some foreign-owned small retailers, particularly Chinese-owned stores, have opened. Additionally, the GDRC bans the majority foreign-ownership of agricultural firms.

7. PROTECTION OF PROPERTY RIGHTS

Ownership interest in movable property (e.g. equipment, vehicles, etc.) is secured and registered through the Ministry of the Interior's Office of the Notary. Real estate property (e.g. buildings and land) is secured and registered at the Ministry of Land's Office of the Mortgage Registrar. Land registration can be particularly problematic as records are often incomplete and legal disputes over land deals are very common.

In principle, Intellectual Property Rights (IPR) are legally protected in the DRC, but enforcement of IPR regulations is virtually non-existent. The country is a signatory to a number of international agreements with organizations such as the World Intellectual Property Organization (WIPO), and the Paris Convention for the Protection of Intellectual Properties, which protects trademarks and patents. The DRC is also a member of the Berne Convention that protects copyrights, artistic works, and literary rights. The maximum protection that these conventions provide is 20 years for patents and 20 years, renewable, for trademarks, beginning from the date of registration. If it is not used within three years, a trademark can be cancelled. The DRC has not yet signed the WIPO Internet Treaties.

In July 2011, the Ministry of Culture and Art established the Société des Droits d'Auteur et des Droits Voisins (SOCODA) to address IPR issues faced by authors. The Ministry of Culture in collaboration with SOCODA has presented a law to the government that seeks to rectify the flaws of the existing 1986 IPR law. The law is still pending Parliamentary approval.

For additional information about treaty obligations and points of contact at local IP offices, please see WIPO's country profiles at <http://www.wipo.int/directory/en/>.

Embassy point of contact: Economic and Commercial Section at KinshasaEcon@state.gov

Local lawyers list: <http://kinshasa.usembassy.gov/attorneys-in-drc.html>

8. TRANSPARENCY OF THE REGULATORY SYSTEM

Implementing a transparent regulatory system is still a challenge in the DRC. It is still far from securing a complete legal and regulatory framework for the orderly conduct of business and the protection of investments. The GDRC authority on business standards, the Congolese Office of Control (OCC), oversees participation by foreign businesses.

There are no formal or informal provisions by any private or public structure, in any business-related environment, used to impede foreign investment. Problems encountered within the GDRC tend to be administrative and/or bureaucratic in nature since reforms and improved laws and regulations are often poorly or unevenly applied. Proposed laws and regulations are not published in draft format for public discussion and comments. Normally discussion only occurs within the governmental or administrative entity that drafts them and at the parliament prior to a vote.

In 2008, the DRC became a candidate country for the Extractive Industries Transparency Initiative (EITI), a multi-stakeholder effort to increase transparency in transactions between governments and companies in the extractive industries. The GDRC has taken positive steps under EITI; however it remains a suspended candidate due to repeated deficiencies in the DRC's EITI reports.

9. EFFICIENT CAPITAL MARKETS AND PORTFOLIO INVESTMENT

The banking sector is expanding rapidly, but lack of finance remains a significant constraint on economic growth. The banking penetration rate is only about 6%, but this has doubled since 2009. This places DRC among one of the most under-banked nations in the world. Although the banking system is growing rapidly, it remains limited in its ability to lend to anything but the largest and most profitable enterprises in the country. All economic operators, foreign and domestic, have access to credit markets in the DRC without discrimination. However, foreign investors are more likely to benefit from this type of credit, since they are able to provide guarantees and collateral secured by foreign banks.

Borrowing options for small and medium enterprises are limited and maturities for loans are usually only 3-6 months, and interest rates are high at 16-18%. The weakness of the legal system, the hostile business climate and the difficulty of obtaining inter-bank financing discourage banks from providing long term loans. There are limited possibilities to finance major projects in CDF, given the banks' limited holdings in the national currency (roughly \$12 million per bank), while foreign currency deposits account for 89% of their holdings.

The DRC had approximately 3.1 million bank accounts in 2013, up from 1.6 million in 2012, most of which are dollar-denominated. Much of this increase is the result of the GDRC paying employees through bank transfers. Banks are increasingly offering savings accounts that pay approximately 3%, but few Congolese hold savings in banks. Most account holders withdraw their balance in full shortly after their salary is deposited.

As of March 2014, there were 18 commercial banks and one development bank, SOFIDE (Société Financière de Développement). All 18 banks are supported primarily with foreign capital. The DRC also has approximately 150 microfinance institutions. Money transfer agencies are concentrated in Kinshasa and Katanga Provinces, while credit cooperatives are concentrated in North and South Kivu and Kinshasa Provinces. The volume of deposits was \$3.15 billion in March 2014, up from \$2.34 billion in 2012. The overall balance sheets of the DRC banking system amounted to \$4.43 billion in March 2014 up from \$3.47 billion in 2012 while lending volume reached \$1.9 billion in March 2014 up from \$1.4 in 2012.

Portfolio investment is not yet developed in the DRC. Cross-shareholding and stable shareholding arrangements are not common in the DRC. There are occasional complaints about unfair competition between investors in profitable sectors such as mining and telecommunications.

10. COMPETITION FROM STATE OWNED ENTERPRISES

The DRC's state-owned enterprises (SOEs) are a large burden on the country's economic development. The SOEs stifle competition and are unable to provide reliable electricity, transportation and other important services over which they have near monopolies. Most of the SOEs are overstaffed and laden with large debts, usually including salary arrears, and large unpaid debts to foreign creditors, other SOEs and the state. The GDRC, via the Steering Committee for the Reform of Public Enterprises (COPIREP), and with support from international donors, began working to reform SOEs in 2010; however it has made little progress.

11. CORPORATE SOCIAL RESPONSIBILITY

The GDRC requires companies in key sectors to provide significant Corporate Social Responsibility (CSR) to surrounding communities, including many services normally provided

by government. Mining companies are frequently required to support and maintain infrastructure projects such as roads, schools, dams and hospitals. Many companies involved in extractives industries are required to establish a community development fund with projects selected by a committee of representatives from surrounding communities and indigenous groups.

12. POLITICAL VIOLENCE

The Department of State's Security Environmental Threat List Report has designated the DRC as a high-threat post for political violence. The DRC has suffered bouts of civil unrest and conflict for many years. Large-scale military looting in 1991 and 1993, for example, resulted in significant loss of economic productive capacity and flight of foreign investors. In addition, widespread looting and destruction associated with wars in the DRC from 1996-1997 and from 1998-2003 further damaged the Congolese economy.

The country's first democratic elections in more than 40 years took place in 2006, under a new constitution that established national and provincial governments. National presidential and legislative elections took place on November 28, 2011. Incumbent President Kabila was declared the winner, although local and international observers reported widespread irregularities, logistical problems, and a lack of transparency. Local and national elections are expected in 2015 and 2016.

The United Nations has its largest peacekeeping operation in the world in the DRC. Known by its French acronym of MONUSCO, it has over 20,000 peacekeepers deployed throughout the country, with a majority of them in the east. The DRC military has conducted a series of operations against the Democratic Forces for the Liberation of Rwanda (FDLR), the Allied Democratic Forces (ADF), the Lord's Resistance Army (LRA) and other armed groups in the eastern DRC in an effort to restore state authority to the region. As a result of conflict and the resulting humanitarian crises, there are approximately 2.7 million internally displaced persons in the DRC. In April 2012, a group calling itself M23 began an aggressive rebellion in North Kivu province, occupying large parts of the province including the provincial capital of Goma for two weeks in November 2012. The Congolese Army, with the assistance of a new UN rapid intervention brigade, defeated M23 in November 2013.

Political instability results in a highly unpredictable security situation in many parts of the country including Kinshasa. On December 30, 2013, clashes occurred when armed supporters of a religious leader attacked strategic government locations in Kinshasa, including the airport, as well as key locations in three other Congolese cities. Over 100 people were killed across the country when Congolese police and military units responded with live gunfire, effectively shutting down the capital until the situation stabilized.

The security situation in the DRC remains unstable and difficult to predict. All travel by Embassy personnel outside of Kinshasa must be vetted by Embassy security staff for approval.

In addition to continuing instability in the eastern DRC, chronic strikes by civil servants, public transport providers and teachers continue to cause social upheaval. Military and police personnel remain poorly trained and underpaid.

13. CORRUPTION

U.S. and domestic businesses routinely cite corruption as a principal constraint to doing business in the DRC. In principle, there are laws that punish corruption, for both offering and

accepting bribes. The GDRC has recently made some progress on corruption; however bribery is still routine in public and private business transactions, especially in the areas of government procurement, dispute settlement, and taxation. The DRC was ranked 154 out of 177 nations on Transparency International's 2013 Corruption Perception Index.

The DRC is not a signatory to the UN Anti-Corruption Convention. However, the DRC did pass its own anti-corruption law in 2004. Additional legislation includes the 2004 Money Laundering Act, under which the DRC cooperates with African and European crime-fighting organizations. The DRC is not a signatory of the OECD Convention on Combating Bribery. In September 2007, the DRC ratified the protocol agreement with SADC (Southern African Development Community) on Fighting Corruption. The GDRC is also preparing to ratify the African Union Convention on the Prevention and Fighting of Corruption.

Corruption, including bribery, raises the costs and risks of doing business. According to a report published in 2012, corruption adds approximately 30-40 % to the cost of transactions in the DRC, compared approximately 10-30% in neighboring countries.

The U.S. Government seeks to level the global playing field for U.S. businesses by encouraging other countries to take steps to criminalize their own companies' acts of corruption, including bribery of foreign public officials, by requiring them to uphold their obligations under relevant international conventions. A U. S. firm that believes a competitor is seeking to use bribery of a foreign public official to secure a contract should bring this to the attention of appropriate U.S. government officials, including local embassy personnel and through the Department of Commerce Trade Compliance Center "Report A Trade Barrier" website at http://tcc.export.gov/Report_a_Barrier/index.asp.

In 1977, the United States enacted the Foreign Corrupt Practices Act (FCPA), which makes it unlawful for a U.S. person, and certain foreign issuers of securities, to make a corrupt payment to foreign public officials for the purpose of obtaining or retaining business for or with, or directing business to, any person. The FCPA also applies to foreign firms and persons who take any act in furtherance of such a corrupt payment while in the United States. For more detailed information on the FCPA, see the FCPA Lay-Person's Guide at: <http://www.justice.gov/criminal/fraud/fcpa/>.

14. BILATERAL INVESTMENT AGREEMENTS

The United States and the DRC (then-Zaire) signed a Bilateral Investment Treaty (BIT) in 1984 that entered into force in 1989. This treaty guarantees reciprocal rights and privileges to each country's investors. The BIT provides for binding third-party arbitration in the event of an investment expropriation dispute. There is no Bilateral Taxation Treaty between the U. S. and the DRC.

Germany, France, Belgium, Italy, South Korea, and China (PRC) have signed bilateral investment agreements with the DRC. South Africa and Kenya are negotiating bilateral investment agreements with the DRC. Lebanon, Ivory Coast, and Burkina Faso have negotiated, but not yet signed, bilateral investment treaties with the DRC.

15. OPIC AND OTHER INVESTMENT INSURANCE PROGRAMS

The U.S. Overseas Private Investment Corporation (OPIC), which provides political risk insurance and project financing to U.S. investors and non-governmental organizations, has

granted political risk insurance for projects in the DRC in the past and is open to working on future projects in the DRC.

The DRC is a member of the World Bank's Multilateral Investment Guarantee Agency (MIGA), which offers insurance on new foreign investments to protect against foreign exchange losses, expropriation, and civil unrest. The GDRC is negotiating resumption of the MIGA program which would allow for investment insurance in other sectors of the economy. The DRC is also a member of the African Trade Insurance Agency, which provides political risk insurance.

16. LABOR

The DRC's large urban population provides a ready pool of available labor, including a significant number of high school and university graduates, a few of whom have studied at American universities. Employers cannot, however, take diplomas at face value. Skilled labor is in short supply and must usually be trained by individual companies.

The GDRC sets regional minimum wages for all workers in private enterprise, with the highest pay scales applied in the cities of Kinshasa and Lubumbashi. Most foreign employers pay higher wages than the official minimum wage.

The Labor Code is in compliance with the recommendations of the International Labor Organization. The code provides for tight control of labor practices and regulates recruitment, contracts, the employment of women and children, and general working conditions. Strict labor laws can make termination of employees difficult. The code also provides for equal pay for equal work without regard to ethnicity, sex, or age. The DRC Parliament passed a new labor code in April 2014 which will enforce a six day work week, allow married women to work without their husband's approval, permit pregnant women to take leave without suspending their work contract, and ban discrimination on the basis of HIV status.

Employers must cover medical and accident expenses. Larger firms are required to have medical staff and facilities on site, with the obligations increasing with the number of employees. Mandated medical benefits are a major cost for most firms. Employers must provide family allowances based on the number of children, paid public holidays and annual vacation based on length of service. Employers must also provide daily transportation for their workers or pay an allowance in areas served by public transportation. Outside the major cities, large companies often provide infrastructure, such as roads, schools and hospitals. The Ministry of Labor must grant permission for staff reductions. Generous severance packages are required by the labor code.

Every foreign employee must apply for a work permit from the National Committee of Employment of Foreigners within the Ministry of Labor. The right to strike is recognized and the law provides for reconciliation procedures in cases where the government is not involved.

17. FOREIGN TRADE ZONES / FREE PORTS

The DRC does not have any areas designated as free trade or have any free port zones. The DRC is a member of the Southern African Development Community (SADC) and the Common Market of Eastern and Southern Africa (COMESA), but has not yet joined either COMESA or SADC free trade Areas. During the 2014 COMESA forum, the GDRC expressed its intention to join the free trade area of the COMESA.

18. FOREIGN DIRECT INVESTMENT AND FOREIGN PORTFOLIO INVESTMENT STATISTICS

Obtaining reliable statistical data on foreign direct investment (FDI) in the DRC remains a challenge. Most data of FDI presented by authorized public institutions and agencies are estimates. There are currently two sources of information on FDI in the DRC: the Central Bank (BCC) and the National Agency for Investment Promotion (ANAPI).

Section 5 - Government

Chiefs of State and Cabinet Members:

For the current list of Chiefs of State and Cabinet Members, please access the following - [Central Intelligence Agency online directory of Chiefs of State and Cabinet Members of Foreign Governments](#)

Legal system:

civil legal system based on Belgian version of French civil law

International organization participation:

ACP, AfDB, AU, CEPGL, COMESA, EITI (candidate country), FAO, G-24, G-77, IAEA, IBRD, ICAO, ICRM, IDA, IFAD, IFC, IFRC, IHO, ILO, IMF, IMO, Interpol, IOC, IOM, IPU, ISO, ITSO, ITU, ITUC (NGOs), MIGA, NAM, OIF, OPCW, PCA, SADC, UN, UNCTAD, UNESCO, UNHCR, UNIDO, UNWTO, UPU, WCO, WFTU (NGOs), WHO, WIPO, WMO, WTO

Section 6 - Tax

Exchange control

There is no exchange control restriction on the repatriation of profit for a foreign company

Treaty and non-treaty withholding tax rates

DRC has entered into a double tax treaty with Belgium, which was effective from 1 January 2012.

Methodology and Sources

Section 1 - General Background Report and Map

(Source: [CIA World Factbook](#))

Section 2 - Anti – Money Laundering / Terrorist Financing

	Lower Risk	Medium Risk	Higher Risk
FATF List of Countries identified with strategic AML deficiencies	Not Listed	AML Deficient but Committed	High Risk
Compliance with FATF 40 + 9 recommendations	>69% Compliant or Fully Compliant	35 – 69% Compliant or Fully Compliant	<35% Compliant or Fully Compliant
US Dept of State Money Laundering assessment (INCSR)	Monitored	Concern	Primary Concern
INCSR - Weakness in Government Legislation	<2	2-4	5-20
US Sec of State supporter of / Safe Haven for International Terrorism	No	Safe Haven for Terrorism	State Supporter of Terrorism
EU White list equivalent jurisdictions	Yes		No
International Sanctions UN Sanctions / US Sanctions / EU Sanctions	None	Arab League / Other	UN , EU or US
Corruption Index (Transparency International) Control of corruption (WGI) Global Advice Network	>69%	35 – 69%	<35%
World government Indicators (Average)	>69%	35 – 69%	<35%
Failed States Index (Average)	>69%	35 – 69%	<35%
Offshore Finance Centre	No		Yes

Section 3 - Economy

General Information on the current economic climate in the country and information on imports, exports, main industries and trading partners.

(Source: [CIA World Factbook](#))

Section 4 - Foreign Investment

Information on the openness of foreign investment into the country and the foreign investment markets.

(Source: [US State Department](#))

Section 5 - Government

Names of Government Ministers and general information on political matters.

(Source: [CIA World Factbook](#) / <https://www.cia.gov/library/publications/world-leaders-1/index.html>)

Section 6 - Tax

Information on Tax Information Exchange Agreements entered into, Double Tax Agreements and Exchange Controls.

(Sources: [OECD Global Forum on Transparency and Exchange of Information for Tax Purposes](#) [PKF International](#))

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Gary Youinou

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