

## AFRICA RISK CONSULTING DRC Monthly Briefing September 2018

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### DRC Summary 20 September 2018

*The Commission Electorale Nationale Indépendante (CENI) (national independent electoral commission) releases the official list of candidates for the December presidential election, formally barring opposition candidates Jean-Pierre Bemba and Moïse Katumbi from contesting the election. Mines minister Martin Kabwelulu states that the prime minister, Bruno Tshibala, will sign a decree soon that will designate cobalt, as well as other minerals, as strategic, which will increase royalties on these minerals. The Ebola outbreak continues in the DRC. The Red Cross states that geography of the outbreak area, as well as conflict and growing suspicion towards foreigners helping to fight the epidemic, complicates treatment of Ebola.*

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### CENI bars Bemba and Katumbi in official election candidate list

The **Commission Electorale Nationale Indépendante (CENI)** (national independent electoral commission) released the official list of candidates for the December presidential election on 19 September, which formally bars opposition candidates **Jean-Pierre Bemba** and **Moïse Katumbi** from contesting the election.<sup>1</sup> CENI received candidacy registrations from over 24 presidential hopefuls to contest the elections, and approved 21 candidates.<sup>2</sup>

The official barring of Bemba and Katumbi was not surprising. The government refused to allow Katumbi into the **Democratic Republic of the Congo (DRC)** in August (see *ARC Briefing DRC August 2018*) and the constitutional court ruled on 4 September that Bemba was ineligible to run due to his 2016 conviction for witness tampering at the **International Criminal Court (ICC)**.<sup>3</sup> The court interpreted this conviction as a form of corruption and the DRC electoral law bars those convicted of corruption from running for president.<sup>4</sup> The ICC sentenced Bemba on 17 September to 12 months in prison and fined him \$350,000 for witness tampering, although the court reduced Bemba's prison term to zero due to time served.<sup>5</sup> Bemba plans to appeal the witness tampering conviction and hopes to overturn the conviction, but the appeal will not be concluded in time for the 23 December election.<sup>6</sup> Bemba lost a first appeal in the witness tampering case in March, but his lawyer, **Melinda Taylor**, has identified new reasons for an appeal.<sup>7</sup> Without an overturning of his conviction, Bemba will never be allowed to run for president in the DRC.

With Bemba and Katumbi excluded, the December election becomes a two-horse race between President **Joseph Kabila's** (2001-present) handpicked successor, **Emmanuel Ramazani Shadary**, and **Félix Tshisekedi**, the son of veteran opposition leader **Etienne Tshisekedi**. For the opposition, the key will be to unite behind Tshisekedi. An opposition rally is planned for 29 September after talks in **Brussels (Belgium)** and **Johannesburg (South Africa)** with opposition leaders such as Bemba, Tshisekedi and Katumbi.<sup>8</sup> Another option for a single candidate may be **Vital Kamerhe**, who placed third in the 2011 elections. However, Tshisekedi has a larger following and would be a better candidate.<sup>9</sup>

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<sup>1</sup> EWN, 20 Sep 2018

<sup>2</sup> The Star, 19 Sep 2018

<sup>3</sup> CNBC Africa, 6 Sep 2018

<sup>4</sup> CNBC Africa, 6 Sep 2018

<sup>5</sup> IOL, 18 Sep 2018

<sup>6</sup> Business Day, 20 Sep 2018

<sup>7</sup> Business Day, 20 Sep 2018

<sup>8</sup> EWN, 20 Sep 2018

<sup>9</sup> VOA, 19 Sep 2018

Bemba stated on 17 September that he would be willing to support an opposition candidate:

*"If the elections take place under [democratic] conditions, and if the opposition unites behind one candidate, then yes... I will support that person and I will make them win."<sup>10</sup>*

Katumbi has not stated whether he would support an opposition candidate, though at this stage there are three possible options for the opposition. First, each party could put forward its own candidates and not unite. This is the best possible option for Shadary and Kabila as it would split the vote and increase their chances of winning the election, possibly without fraud. Secondly, the opposition could unite behind one candidate, which is likely to be Tshisekedi. This is the best option for the opposition, if the parties can mobilise their supporters to vote for Tshisekedi. However, Bemba and Katumbi will eventually want to return to the DRC and run for president, which will involve electoral law changes for Bemba and a presidential pardon for Katumbi. The risk for both of them is that Tshisekedi will refuse to do so if he does win the election, leaving them in political exile once again. Finally, the opposition may unite but decide to boycott the election, arguing that it is not democratic. While this would guarantee Shadary an electoral victory, it would not give Shadary the legitimacy needed to run the country. This option would be the worst case scenario for the DRC, though it may be the best option for the opposition if it is unable to unite under a single candidate. Kabila's plan is to run again in 2023 – similar to **Russia's** President, **Vladimir Putin** (2000-2008, 2012-present) – but this would be more difficult if his successor and any elections are seen as illegitimate. The government has already tried to limit the amount of opposition party exposure. State-owned **Radio-Télévision nationale congolaise** fired two journalists on 17 September for covering opposition leader **Elie Kapend Kanyimbu's** press conference.<sup>11</sup>

### Mines ministry to designate cobalt as strategic mineral

Mines minister **Martin Kabwelulu** stated on 15 September that the prime minister, **Bruno Tshibala**, will sign a decree soon that will designate cobalt, as well as other minerals, as strategic.<sup>12</sup> This designation will increase royalties on these minerals. Currently, cobalt royalties were scheduled to rise from 2% to 3.5% under a new mining code that came into effect in June, but will jump to 10% after being classed as strategic.<sup>13</sup>

The royalty increase is due to clauses in the new mining code, which Kabila signed into law in March (see *ARC Briefing DRC March 2018*). Mining companies criticised the code and previously negotiated with the government to change it (see *ARC Briefing DRC December 2017*), however the government refused to make any of the suggested changes. Kabwelulu said on 12 September that mining companies should not question the new code and instead work with it. His remarks may be in response to the **Mining Promotion Initiative** which mining companies, including South Africa-based **Randgold Resources**, Switzerland-based **Glencore**, and China-based **CMOC International**, set up in August to lobby the government on their behalf.<sup>14</sup> Despite their criticism, all companies are reportedly paying the new royalty and taxes as stipulated by the new code.<sup>15</sup>

The expected royalty increase will increase the cost of cobalt. Cobalt is a key component in rechargeable batteries for electric vehicles. The increased demand, as well as supply issues and the DRC's increased royalties, may cause the price to rise by a further 20% over the next two years.<sup>16</sup> Looking farther into the future, demand for cobalt will increase as demand for electric vehicles increases (see chart 1).

<sup>10</sup> Daily Nation, 18 Sep 2018

<sup>11</sup> Today, 18 Sep 2018

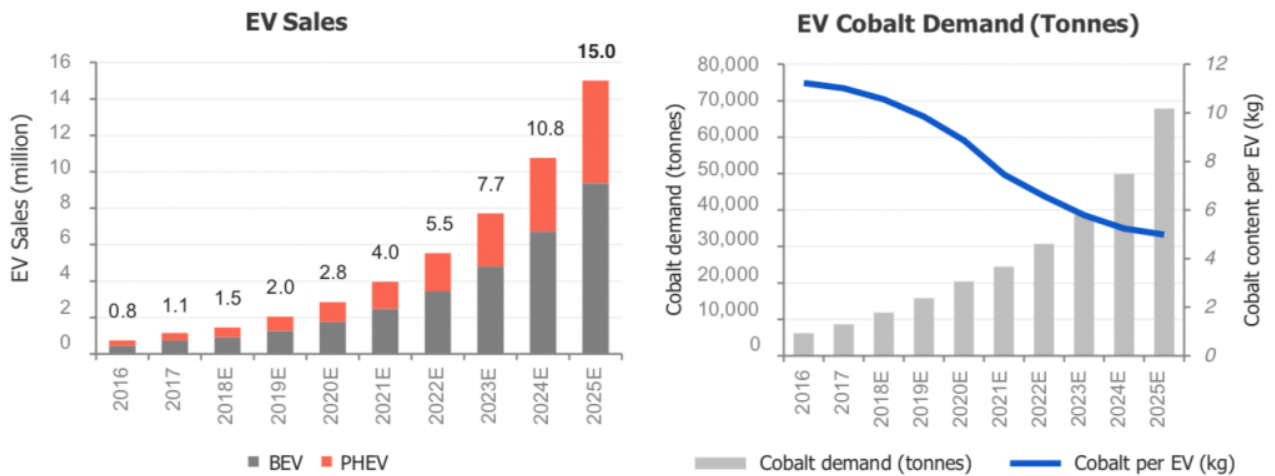
<sup>12</sup> Reuters, 15 Sep 2018

<sup>13</sup> Reuters, 15 Sep 2018

<sup>14</sup> Mining Technology, 13 Sep 2018

<sup>15</sup> Reuters, 15 Sep 2018

<sup>16</sup> Resource World, 17 Sep 2018



Source: www.semiengineering.com

Analysts note that while the market is broadly in balance at the moment, this is likely to change by 2022. In 2017 cobalt production was 114,700 tonnes while demand was 117,700 tonnes. After 2022 substantial supply increases will be necessary.<sup>17</sup> With good governance, this increase in demand could help to uplift the DRC’s economy, providing jobs and a stable business environment, as the DRC accounts for 54% of the world’s cobalt production.<sup>18</sup>

Kabila stated on 12 September there are plans to establish a special economic zone for companies to further refine mineral products in the DRC rather than in China and other places, although he did not offer more information on whether beneficiation would be funded or practical.<sup>19</sup> While this is a step in the right direction, Kabila’s probable plan to become president again in 2023 makes political stability unlikely. The rise in cobalt demand will increase the risk of conflict, rather than bring about an economic miracle. The government’s reliance on cobalt for financing may also run out as car manufacturers, such as **United States**-based **Tesla**, look for alternatives to cobalt in batteries that would reduce demand for this currently important mineral.<sup>20</sup>

### Ebola outbreak continues in DRC

The Ebola outbreak continues in the DRC. Non-profit organisation **Red Cross** stated on 14 September that the geography of the outbreak area, as well as conflict and growing suspicion towards foreigners helping to fight the epidemic, complicate treatment of the disease.<sup>21</sup> DRC health authorities declared a new Ebola outbreak on 1 August and since then have confirmed 137 cases with 92 deaths.<sup>22</sup> The epicentre of the outbreak is in **Mabalako** and **Beni** in **North Kivu Province**, but other areas in North Kivu have been affected and there is one confirmed case in neighbouring **Ituri Province**.<sup>23</sup> Most worrying is a spread to commercial centre, **Butembo**, which is close to **Rwanda** and increases the chances of a regional outbreak.<sup>24</sup> North Kivu has a population of five million people.

Health officials have administered vaccines, which has helped to slow the outbreak, although outbreaks continue in areas that are hard to reach or are insecure due to conflict.<sup>25</sup> Rumours in affected communities that Ebola was a hoax to enrich foreign health workers or a political ploy with

<sup>17</sup> Semiconductor Engineering, 10 Sep 2018

<sup>18</sup> Resource World, 17 Sep 2018

<sup>19</sup> CGTN, 14 Sep 2018

<sup>20</sup> Wired, 6 Jul 2018

<sup>21</sup> News24, 16 Sep 2018

<sup>22</sup> News24, 16 Sep 2018

<sup>23</sup> News24, 16 Sep 2018

<sup>24</sup> News24, 5 Sep 2018

<sup>25</sup> Center for Infectious Disease Research and Policy, 17 Sep 2018

the DRC elections have hampered efforts to control the outbreak, resulting in some workers being attacked with rocks or chased away.<sup>26</sup>

The outbreak has negatively affected the region's economy. There are also concerns that it could cross the border into Rwanda and **Uganda**, which may result in a similar outbreak to that in **West Africa** in 2014. If the Ebola outbreak continues into election season the government may use this as an excuse to postpone elections once again if electoral monitors are unable to travel to North Kivu.<sup>27</sup>

Unnecessary travel to the North Kivu region is not advised, although most foreign companies have not had a presence in the region due to the continuing conflict.

### Planner

23 Dec 2018 **(DRC)** President, legislative and provincial elections scheduled

9 Jan 2019 **(DRC)** Electoral results published

13 Jan 2019 **(DRC)** President to be sworn into office

### Chronology

19 Sep 2018 **Kinshasa (DRC) News24**. Opposition leader **Jean-Pierre Bemba** plans to appeal his **International Criminal Court** sentence for witness tampering to try to allow him to run in the December elections;

19 Sep 2018 **Kinshasa (DRC) New Vision**. The **Commission Electorale Nationale Indépendante** releases the official list of presidential candidates and formally excludes Bemba and **Moïse Katumbi**;

18 Sep 2018 **Kinshasa (DRC) News24**. State-owned television station, **Radio-Télévision nationale congolaise**, fires two reporters who covered an opposition leader's press conference;

17 Sep 2018 **Kinshasa (DRC) News24**. Opposition leader **Jean-Pierre Bemba** says he is willing to support an opposition candidate after a **Democratic Republic of the Congo (DRC)** court bars him from running;

17 Sep 2018 **Kinshasa (DRC) Reuters**. The **International Criminal Court** fines Bemba \$350,000 and sentences him to 12 months in prison for witness tampering, though the prison sentence was reduced to zero for time served previously;

16 Sep 2018 **Kinshasa (DRC) Business Day**. Mines minister **Martin Kabwelulu** states that the prime minister, **Bruno Tshibala**, will sign a decree this week to describe cobalt and other minerals as 'strategic', subjecting them to higher royalties;

12 Sep 2018 **Kinshasa (DRC) Investing News**. Mines minister **Martin Kabwelulu** asks mining companies to work with the government to implement the new mining code rather than fight the new law;

11 Sep 2018 **Kinshasa (DRC) News24**. Opposition politician **Jean-Pierre Bemba** warns of chaos if the December presidential vote is not transparent and fair;

5 Sep 2018 **Kinshasa (DRC) Business Day**. The **Democratic Republic of the Congo**-based coltan miner, **Société Minière de Bisunzu**, resumes coltan purchasing after smuggling allegations result in a three-month shutdown;

<sup>26</sup> News24, 16 Sep 2018

<sup>27</sup> www.refworld.org

- 4 Sep 2018 **Kinshasa (DRC)** *Al Jazeera*. The constitutional court backs the **Commission Electorale Nationale Indépendante's** decision that **Jean-Pierre Bemba** cannot run in the presidential election because of a pending case at the **International Criminal Court**;
- 2 Sep 2018 **Kinshasa (DRC)** *News24*. The **Democratic Republic of the Congo** rejects outside assistance for the upcoming election from former **South African** President **Thabo Mbeki** and others;
- 29 Aug 2018 **Kinshasa (DRC)** *News24*. All six barred presidential candidates file appeals with the constitutional court;
- 29 Aug 2018 **Hague (Netherlands)** *News24*. Former DRC presidential candidate **Jean-Pierre Bemba** will face sentencing at the **International Criminal Court** on 17 September for witness tampering;
- 28 Aug 2018 **Kinshasa (DRC)** *Associated Press*. **International Criminal Court** prosecutors state that **Democratic Republic of the Congo** rebel militia leader **Bosco Ntaganda** is guilty of 18 charges of using child soldiers and other war crimes;
- 26 Aug 2018 **Kinshasa (DRC)** *News24*. The **Mouvement de Liberation du Congo** plans to appeal the decision which rejects **Jean-Pierre Bemba's** candidacy for the December elections;
- 25 Aug 2018 **Kinshasa (DRC)** *News24*. The **Commission Electorale Nationale Indépendante** bans Jean-Pierre Bemba from running for president due to his ongoing case at the **International Criminal Court**;
- 25 Aug 2018 **North Kivu (DRC)** *Al Jazeera*. Authorities roll out new drugs to tackle the **Ebola** virus;
- 23 Aug 2018 **North Kivu (DRC)** *News24*. The health ministry confirms that 61 people have now died from the Ebola outbreak;
- 23 Aug 2018 **Kinshasa (DRC)** *Mining.com*. Several major mining companies form the **Mining Promotion Initiative** to engage with the **Democratic Republic of the Congo** government regarding the new mining code;
- 21 Aug 2018 **Goma (DRC)** *News24*. The death toll from **Ebola** in the **Democratic Republic of the Congo** rises to 55;
- 21 Aug 2018 **Kinshasa (DRC)** *Daily Maverick*. President **Joseph Kabila** rejects **South African** President **Cyril Ramaphosa's** appointment of former President **Thabo Mbeki** as special envoy to the **Democratic Republic of the Congo (DRC)**;
- 20 Aug 2018 **Kinshasa (DRC)** *MiningNews*. CFO of **Australia**-based mining company, **Ross Carrol**, expects **Switzerland**-based **Glencore** and **South Africa**-based **Randgold Resources** to launch arbitration this week against the DRC's new mining code;
- 17 Aug 2018 **Kinshasa (DRC)** *News24*. President **Joseph Kabila** calls the **United States'** threat of sanctions if Kabila does not step down as *'blackmail'*;
- 16 Aug 2018 **Kinshasa (DRC)** *TechCentral*. **United Kingdom**-based telecommunication tower company, **Helios Towers**, plans to build 1,800 kilometres of networks linking mobile towers in the **Democratic Republic of the Congo (DRC)**;
- 16 Aug 2018 **Kinshasa (DRC)** *Al Jazeera*. Attorney-general **Flory Kabange Numbi** issues an international arrest warrant for exiled opposition leader **Moïse Katumbi**;
- 14 Aug 2018 **Kinshasa (DRC)** *News24*. Opposition parties discuss putting forward a joint candidate for the December elections;
- 14 Aug 2018 **Kinshasa (DRC)** *Journal du Cameroun*. The **Commission Eléctorale Nationale**

**Indépendante** head, **Corneille Nangaa**, plans to acquire planes and helicopters to transport polling materials across the **Democratic Republic of the Congo**;

14 Aug 2018 **Goma (DRC)** *Reuters*. Officials start to use an experimental **Ebola** treatment to counter the latest outbreak;