

AFRICA RISK CONSULTING

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DRC Summary 21 September 2020

The Chamber of Mines welcomes the Democratic Republic of the Congo (DRC) government's reversal of proposed changes in its tax policy, which will now see the government exempting mining companies from value-added tax (VAT) on imports upfront. The government also commits to refunding VAT credits to miners after a joint audit of the amount of VAT stock to be refunded. The Banque Centrale du Congo (central bank) revises its forecast for economic contraction from -2.4% to -1.7%. The International Monetary Fund (IMF) calls on the DRC to provide transparency in mining contracts, in order to receive IMF aid. United States-based electric vehicle company Tesla Inc has joined the Fair Cobalt Alliance (FCA) following the announcement of its decision in July to use cobalt from Switzerland-headquartered Glencore's mines in the DRC to make lithium-ion batteries. A makeshift gold mine collapses in Kamituga (South Kivu Province) following heavy rains, highlighting the environmental, safety and social risks associated with informal mining in the DRC and other countries. Insecurity continues to plague eastern DRC as the United Nations (UN) places Nobel Peace Prize laureate Denis Mukwege under security protection following death threats against him.

Government reverses VAT changes ...

The **Chamber of Mines** welcomed on 14 September the government's reversal of proposed changes in its tax policy. The government will now exempt mining companies from value-added tax (VAT) on imports upfront, as opposed to reimbursement on VAT paid. Mining companies claim the reimbursements were slow to materialise, causing cash flow difficulties and frustration with tax authorities for mining companies.¹

The **Democratic Republic of the Congo (DRC)** government suspended the VAT on mining imports in July 2016, but in August, the cash-strapped government reversed its decision in order to generate funds for its depleted coffers (see *ARC Briefing DRC August 2020*). The policy change alarmed many in the mining industry but the government backed down after lengthy discussions with mining companies and will now reimburse VAT payments to companies operating in the country based on a government audit of the value owed to companies. Chamber of mines president **Louis Watum** estimated that the backlog of VAT reimbursements which the state owes mining companies has grown to more than \$1 billion.² In 2016 the government owed companies \$700m. Budget minister **Jean-Boudouin Mayo** said:

*"The government is committed to refunding VAT credits to miners after a joint audit of the actual amount of VAT stock to be refunded."*³

The government's decision comes as the **Banque Centrale du Congo (BCC)** (central bank) announced that DRC's economy is expected to contract by -1.7% in 2020, compared to an earlier forecast of -2.4% contraction, due to higher mining revenue.⁴ The mining sector has performed better than initially forecast due to the confinement measures introduced to stem the spread of **Covid-19**.

¹ Reuters, 14 Sep 2020

² Reuters, 14 Sep 2020

³ Reuters, 14 Sep 2020

⁴ Bloomberg, 8 Sep 2020

The BCC noted that a rise in the global price of copper – one of DRC’s key exports – has also improved the economic outlook.⁵

... as IMF calls for transparency in mining contracts

The **International Monetary Fund (IMF)** has called on the DRC to make its mining contracts fully transparent if it wants to gain access to a new aid programme. The IMF suspended its programme with the DRC in 2012 over a lack of transparency at state-owned mining company **Gécamines**. The IMF’s representative in DRC, **Philippe Egoume**, said the IMF’s year-long dispute with the DRC over its mining industry centres around the publication of old contracts, while only making public its recent contracts.

At the heart of the issue is corruption that has plagued the mining industry.⁶ The extraction and export of DRC minerals is handled by DRC joint-venture contracts between Gécamines and various foreign businesses.⁷ One of Gécamines’ partners is **Israeli** billionaire, **Dan Gertler**, who has been under **United States (US)** sanctions since December 2017.⁸ The US flagged Gertler’s contracts with Gécamines for corruption and misconduct.

The IMF has urged the administration of President **Felix Tshisekedi** (2018-present) to provide a “*realistic budget*” for the upcoming year. The DRC government forecast a budget of \$11 billion in 2020, twice the amount set for the previous year.⁹ Egoume said the figures for the next IMF aid programme are yet to be finalised and “*too early to discuss*”.¹⁰

Tesla joins Fair Cobalt Alliance ...

US-based electric vehicle and clean energy company **Tesla Inc** has joined the **Fair Cobalt Alliance (FCA)**.¹¹ Tesla announced plans on 16 July to use cobalt from **Switzerland**-headquartered **Glencore’s** mines in the DRC to make lithium-ion batteries at its **Tesla Giga** factories in **Berlin (Germany)** and **Shanghai (China)** (see *ARC Briefing DRC August 2020*).¹²

The FCA aims to bring together mining industry players, the DRC government and civil society in the to address issues in artisanal cobalt mining, including child labour and hazardous working conditions.¹³ The FCA is endorsed by Glencore and Chinese cobalt refiner **Zhejiang Huayou Cobalt**, China’s largest cobalt refiner, which supplies carmakers including **Sweden**-based **Volvo** and **Germany**-based **Volkswagen**.¹⁴ Glencore supplies more than two thirds of the world’s cobalt output and is expected to provide Tesla with up to 6,000 tons of cobalt a year.

With demand for cobalt set to increase due to the expansion of the electric car sector, Tesla is searching for ethically mined cobalt in response to consumer pressure. The DRC supplies 60% of the world’s cobalt, but more than 10% comes from small-scale artisanal miners who dig by hand, which has become a contentious issue (see below).¹⁵ The FCA and other prominent non-governmental organisations (NGOs) have exposed child labour and human rights abuses as common practice at mining sites. International rights group **International Rights Advocates** filed a federal class action in **Washington DC (US)** in December 2019 against US-based technology companies **Apple, Google, Microsoft, Dell** and Tesla, on behalf of families of children killed or injured while mining the cobalt in

⁵ CNBC AFRICA, 19 Aug 2020

⁶ AFP, 15 Sep 2020

⁷ AFP, 15 Sep 2020

⁸ Bloomberg, 2 Jul 2020

⁹ CGTN Africa, 15 Sep 2020

¹⁰ AFP, 15 Sep 2020

¹¹ Bloomberg, 8 Sep 2020

¹² Reuters, 16 Jul 2020

¹³ Fairphone.com, 25 Aug 2020

¹⁴ Miningmx, 8 Sep 2020

¹⁵ Bloomberg, 8 Sep 2020

DRC,¹⁶ claiming the companies "are knowingly benefiting from and aiding and abetting the cruel and brutal use of young children to mine cobalt in extremely dangerous conditions".¹⁷

Organisation For Economic Co-operation and Development (OECD) policy analyst **Benjamin Katz** noted that millions of livelihoods in the DRC and around the world depend on artisanal small mining:

*"The OECD encourages industry to responsibly engage with the sector through progressive improvement instead of avoiding it, which often only makes problems in artisanal small mining more hidden."*¹⁸

Although the move to increase transparency in the procurement process of cobalt is welcome, tracing the source of cobalt is difficult, as it often gets mixed in with legally produced industrial cobalt.¹⁹

... as gold mine collapse renews focus on informal mining

As many as 50 people may have died after a makeshift gold mine collapsed in the town of **Kamituga (South Kivu Province)** on 11 September following heavy rains in the eastern region. The collapse of the mine has highlighted the environmental, safety and social risks associated with informal mining in the DRC and other countries. The DRC has rich resources of minerals such as cobalt, diamonds and copper, and its high level of poverty makes working in illegal mines a lucrative prospect.

Kamituga mayor **Alexandre Bundya** blamed the soil substance and erosion for the collapse and declared a two-day mourning period. An eyewitness told **AFP** news:

*"Water went into the three tunnels. When people tried to get out, there was no way as the water was flowing strongly, with high pressure."*²⁰

Provincial governor **Theo Ngwabije Kasi** pledged to implement measures to prevent such accidents from happening in the future. However, industry analysts say it is difficult to prevent such accidents.²¹ In June 2019, at least 39 men died when a copper mine collapsed in **Kolwezi**, in the southeast **Katanga** region.²² Mines are often located in remote areas, and incidents are often under-reported.²³ Mismanagement and conflict have compounded the issues surrounding illegal and artisanal mines:

*"There are hundreds of illegal mining operations in the DRC and often in proximity of other legally sanctioned operations. Stopping the illegal mines will be a mammoth task for authorities, in an industry where accidents are common, with hundreds of deaths every year."*²⁴

... and insecurity continues to plague eastern DRC

Nobel peace laureate Dr **Denis Mukwege** has been placed under the guard of **United Nations (UN)** security forces in eastern DRC after receiving death threats. The region has been plagued with conflict for over 25 years, fuelled by the area's rich mineral resources.²⁵ Mukwege is best known for helping thousands of women victims of sexual violence in the eastern DRC, calling for perpetrators to be brought to justice and advocating against the use of rape as a weapon of war.²⁶ Mukwege was targeted by gunmen in October 2012 in an attack that claimed the lives of his security personnel.

¹⁶ CNN Business, 18 Dec 2020

¹⁷ Miningmx, 8 Sep 2020

¹⁸ Mining review, 24 Aug 2020

¹⁹ Source, DRC-based energy analyst

²⁰ AFP, 12 Sep 2020

²¹ Energy analyst, DRC

²² Reuters, 12 Sep 2020

²³ Energy analyst, DRC

²⁴ Bloomberg, 8 Aug 2020

²⁵ BBC, 10 Sep 2020

²⁶ UN News, 28 Aug 2020

UN High Commissioner for Human Rights (UNHCR) spokesperson **Rupert Colville** said threats against Mukwege came via social media and phone calls to him and his family.²⁷ The threats are likely linked to Mukwege's condemnation of rights abuses during the longstanding violence in the highlands of South Kivu, where mainly **Banyamulenge** herders have been involved in conflict against the **Babembe, Bafuliru, and Banyindu** communities.²⁸ Violence and instability in the region will make it challenging for the authorities to provide comprehensive protection for Mukwege and other health care professionals.²⁹

President Tshisekedi personally assured Mukwege's protection and pledged to launch an investigation. Tshisekedi said the interior, security and justice ministers would *"take all measures necessary"* to protect Mukwege,³⁰ while the UN peace keeping force **Mission de l'Organisation des Nations Unies pour la stabilisation en République démocratique du Congo (MONUSCO)** has also vowed to support him.³¹

It is not clear who is behind the death threats, which began when Mukwege began to denounce killings in eastern DRC and demanded justice for human rights violations recorded in a UNHCR mapping report.³² The UNHCR interviewed 1, 200 witness and collected 1, 500 documents to map human rights violations committed against civilians between 1993 and 2003, covering the period when **Rwandan** refugees fled to the DRC.³³ Demanding justice for the crimes involves re-examining the responsibility of DRC's neighbours, Rwanda and **Uganda**, and holding them accountable, which could cause diplomatic tension between DRC and its neighbours.³⁴ Kinshasa-based **Filimbi** youth movement coordinator **Carbone Beni** said:

*"As citizens, we do not want the massacres to continue any longer in the east of our country. And for that, each neighbouring country should recognise its role and make a commitment to stop this. The Congolese want to live with dignity as a human being."*³⁵

Given Mukwege's high profile, the DRC will be under pressure to protect him. However, in stepping in to provide protection services, the UN has demonstrated its lack of trust in the government's ability to protect its own citizens.³⁶

²⁷ UN News, 28 Aug 2020

²⁸ BBC, 10 Sep 2020

²⁹ Source, analyst, DRC

³⁰ RFI, 30 Sep 2020

³¹ Al Jazeera, 28 Aug 2020

³² BBC, 10 Sep 2020

³³ UN News 28 Aug 2020

³⁴ BBC, 10 Sep 2020

³⁵ Al Jazeera, 4 Sep 2020

³⁶ Political analyst, DRC

Planner

Dec 2019-Dec 2020 **UN Security Council** approves extension of **MONUSCO** peacekeeping mission until end 2020, and looks to three-year transition period for ending mandate;

20 Oct 2020 **(DRC)** The Special Representative of the UN Secretary-General and Head of **MONUSCO**, **Leila Zerrougui**, submits to **UN Security Council** a report coordinated with the DRC authorities, for the gradual exit of MONUSCO.

2023 **(DRC)** Scheduled presidential and parliamentary elections

Chronology

17 Sep 2020 **Lubero (DRC)** *BBC*. **United States**-based religious aid organisation **World Vision** denounces an attack in which gunmen killed several of its employees;

15 Sep 2020 **Bunia (DRC)** *Reuters*. The **United Nations (UN)** peacekeeping forces and local authorities report that more than 50 prisoners have starved to death in Bunia prison due to insufficient funds and the prison operating at nearly 500% of its capacity;

13 Sep 2020 **Kinshasa (DRC)** *Africa News*. The **Bilateral Commission for Defense and Security** between the **Angola** and the **Democratic Republic of Congo (DRC)** will meet between 14 and 16 September in Luanda (Angola) to analyse the security situation along the common border;

11 Sep 2020 **Ituri (DRC)** *Reuters*. **Allied Democratic Forces (ADF)** rebel group is suspected of killing 58 people in two separate attacks in **Ituri** province;

8 Sep 2020 **Kinshasa (DRC)** *BBC*. A survey of an active volcano around **Mount Nyiragongo** in eastern DRC suggests an eruption may occur in four to seven years, which could affect more than two million people;

4 Sep 2020 **Kinshasa (DRC)** *Al Jazeera*. Dozens of heavily armed **Cooperative for the Development for Congo (CODECO)** rebel fighters have entered **Ituri** Province capital Bunia in eastern DRC;

1 Sep 2020 **Kinshasa (DRC)** *RFI*. DRC government announces it is clamping down on unregulated ports that are operating illegally in move to return order to international trade in the region;

26 Aug 2020 **Kinshasa (DRC)** *Africa News*. DRC authorities announce the end of the world's largest measles outbreak, which killed more than 7,000 children;

24 Aug 2020 **Kinshasa (DRC)** *BBC*. Armed rebel group **Cooperative for the Development for Congo (CODECO)** agrees to a ceasefire following President **Felix Tshisekedi's** appeal to stop its attacks

21 Aug 2020 **Kinshasa (DRC)** *RFI*. New **Ebola** cases in western DRC have risen to 100, doubling since the **World Health Organisation (WHO)** announced the 11th recorded outbreak;

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