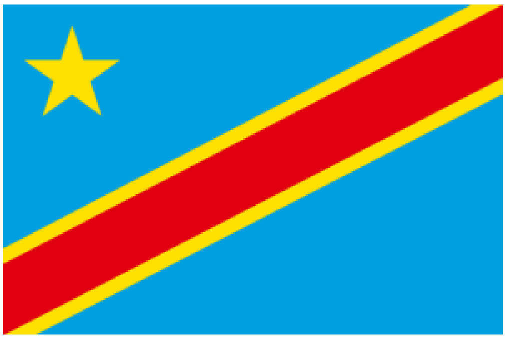
DEMOCRATIC REPUBLIC OF CONGO

MINISTRY OF TRADE, SMALL AND MEDIUM-SIZED ENTERPRISES



ENHANCED INTEGRATED FRAMEWORK PROGRAM (EIF)

Diagnostic Trade Integration Study

Prepared by the World Bank©
Poverty Reduction and Economic Management Department 3
Africa Region

A Democratic Republic of Congo Government Document
Kinshasa, July 2010

List of Acronyms

AAA	Welthungerhilfe (German Agro Action)
ACP	Africa-Caribbean-Pacific
AER	Agence Electrification (Electrification Agency)
AfDB	African Development Bank
ANAPI	Agence Nationale de Promotion des Investisseurs (National Investment Promotion Agency)
ARPTC	Autorité de Régulation des Postes et Télécommunications du Congo (Post and Telecommunications Regulatory Authority of the Congo)
ARPU	Average revenue per user
AUFS	African Union Financial Services
AV	Attestation of value
BAE	Bon à enlever / Delivery Note
BCC	Banque Centrale du Congo (Central Bank of the Congo)
BCDC	Banque Commerciale de développement du Congo (Development Commercial Bank of the Congo)
BIC	Bénéfice à l'industrie et au commerce (industrial and commercial profits)
BIVAC	Bureau Inspection Verification Assessment and Control (Bureau Veritas)
BLNS	Botswana, Lesotho, Namibia, Swaziland
BNP Paribas	Banque Nationale de Paris Paribas
CAMI	Cadastre Minier (Mining Property Register)
CARG	Conseils Agricoles et Ruraux de Gestion (Agricultural and Rural Management Councils)
CBFF	Congo Basin Forest Fund
CCT	Congo Chine Télécommunications
CDM	Clean Development Mechanism
CEEC	Centre d'Evaluation, d'Expertise et de Certification des Substances Minérales Précieuses et Semi-Précieuses (Centre for Valuation, Expertise and Certification of Precious and Semi-Precious Mineral Substances)
CEMAC	Central African Economic and Monetary Community
CEPGL	Communauté Economique des Pays des Grands Lacs (Economic Community of Great Lake States)
CEWAL	Associated Central West African Lines
CFMK	Chemin de Fer Matadi-Kinshasa (Matadi-Kinshasa Railway)
CFU	Chemin de Fer des Uélés (Uélés Railway)
CIF	Cost insurance freight
CLER	Comités Locaux d'Entretien et de Réhabilitation (Local Upkeep and Repair Committees)
CMDC	Compagnie Maritime du Congo (Congo Shipping Company)
CNN	Comite National de la Normalisation (National Standardization Commission)
COMESA	Common Market for Eastern and Southern Africa
COMIFAC	Central African Forest Commission
COOPEC	Coopératives d'Epargne et de Crédit (Savings and Loan Cooperative Associations)
CTC	Customs and Tax Consultancy
CWN	Congolese Wireless Network
DFID	Department for International Development
DGDA	Direction Générale de Douanes et Accises (Customs and Excise Office) (Formerly OFIDA)
DGRAD	Direction Générale des Recettes Administratives, Domaniales et Judiciaires (Directorate-General of Administrative, State-owned Property and Judicial Revenue)

DIAF	Département de l'Inventaire et de l'Aménagement Forestier (Department of Inventory and Forest Management)
DPM	Département des Ports Maritimes (Maritime Ports Department)
DRC	Democratic Republic of the Congo
DVDA	Direction des Voies de Desserte Agricole (Directorate for Farm Roads)
EAC	East African Community
EBA	Everything But Arms
EIB	European Investment Bank
EITI	Extractive Industries Transparency Initiative
EPA	Economic Partnership Agreement
EU	European Union
FAO	Food & Agriculture Organization of the United Nations
FCPF	Forest Carbon Partnership Facility
FDI	Foreign direct investment
FEC	Fédération des Entreprises du Congo (Federation of Congolese Enterprises)
FERE	Fiche électronique de renseignement à l'exportation (Electronic export information form)
FERI	Fiche électronique de renseignement à l'importation (Electronic import information form)
FIB	Fédération des Industries du Bois (Timber Industry Federation)
FLEGT	Forest Law Enforcement, Governance and Trade
FOB	Free on board
FPI	Fonds pour la Promotion de l'Industrie (Industrial Promotion Fund)
FQM	Frontier Quantum Mining
FRCF	Fonds de Reconstitution du Capital Forestier (Fund for the Reconstitution of the Forest Capital)
FRM	Forêts Ressources Management
FTA	Free-trade agreement
GATT	General Agreement on Tariffs and Trade
GDP	Gross domestic product
GEF	Global Environment Facility
GHG	Greenhouse gases
GPRS	Growth and Poverty Reduction Strategy Paper
GSP	Generalized System of Preferences
GTZ	Gezeltschaft für Technische Zusammenarbeit (German Organization for Technical Cooperation)
HIPC	Highly-Indebted Poor Countries
ICCN	Institut Congolais pour la Conservation de la Nature (Congolese Institute for Nature Conservation)
ICT	Information and communications technology
IDA	International Development Association
IDEX	International Development Exchange
IFC	International Finance Corporation
IITA	International Institute for Tropical Agriculture
IMF	International Monetary Fund
INERA	Institut National pour l'Etude et la Recherche Agronomiques (National Institute for Agronomic Studies and Research)
INS	Institut National de la Statistique (National Statistical Institute)
IRR	Internal rate of return
LAP	Libre Administration des Provinces (Independent administration of provinces)
LDC	Least-developed countries
MAD	Magasins et aires sous douane (In-bond warehouses and goods yards)
MAEP	Ministry of Agriculture, Livestock and Fisheries

MDR	Ministry of Rural Development
MDTF	Multi-Donor Trust Fund
MECNT	Ministry of the Environment, Nature Conservation and Tourism
MFN	Most-favoured-nation
MIC	Millicom International Cellular
MINEC	Ministry of the Economy and Trade
MINF	Ministry of Finance
MINPTT	Ministry of Post, Telephone and Telecommunications
MINT	Ministry of Transport
MONUC	United Nations Organization Mission in DR Congo
MONUSCO	Mission des Nations Unies de stabilisation au Congo (UN Stabilization Mission in Congo)
NEPAD	New Partnership for Africa's Development
NGO	Non-governmental organization
OCC	Office Congolais de Contrôle (Congolese Control Office)
OCPT	Office Congolais des Postes et des Télécommunications (Congolese Post and Telecommunications Office)
ODR	Office Des Routes (Highways Office)
OFIDA	Office des Douanes et Accises (Customs and Excise Office) renamed DGDA
OGEFREM	Office de Gestion de Fret Maritime (Multimodal Freight Administration Office)
OKIMO	Office des Mines d'Or de Kilo-Moto (Kilo-Moto Gold Mines Office)
ONATRA	Office National des Transports (National Transport Office)
ONC	Office National du Café (National Coffee Office)
PAC	Permit with security
PANEURO	Rules of origin scheme of the European Union
PFCN	Projet forêt et conservation de la nature (Forest and nature conservation project)
PMEDE	Projet de développement du marché de l'électricité pour la consommation domestique et à l'exportation (Project for the development of the electricity market for domestic consumption and for export)
PMURR	Programme multisectoriel d'urgence de réhabilitation et de reconstruction (Emergency multisectoral rehabilitation and rebuilding programme)
PNS	Programme National Semencier (National Seed Programme)
PPIAF	Public-private infrastructure facility
PPP	Public-private partnership
PSR	Plan de sauvetage et de redressement (Rescue and recovery plan)
REDD	Reduced emissions from deforestation and degradation
REM	Resources extraction monitoring
RVA	Régie des Voies Aériennes (Air Navigation Boad)
RVF	Régie des Voies Fluviales (River Navigation Board)
RVM	Régie des Voies Maritimes (Maritime Navigation Board)
SADC	Southern African Development Community
SAPP	Southern African Power Pool
SARL	Société anonyme à responsabilité limitée (Limited liability company)
SECID	South Eastern Consortium for International Development
SGS	Société Générale de Surveillance
SME	Small and medium-sized entreprises
SMIG	Salaire minimum interpersonnel garanti (Interpersonal minimum wage)
SNCC	Société Nationale des Chemins de fer Congolais (Congolese National Railway Company)
SNEL	Société Nationale d'électricité (National Electricity Company)
SNV	Service National de Vulgarisation (National Extension Service)

SQAM	Standards, quality assurance, accreditation and metrology
SSA	Sub-Saharan Africa
TCM	Terminal à conteneurs de Matadi (Matadi container terminal)
TFM	Tenke Funrurume Mining
UPPE	Unite de pilotage du processus d'élaboration et de mise en œuvre de la Stratégie de réduction de la pauvrete (UPPE-SRP) (Poverty Reduction Strategy Formulation and Implementation Steering Committee)
WDI	World development indicators
WTO	World Trade Organization
WWF	World Wildlife Fund

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Background

This study was prepared following a request made by His Excellency Mr André-Philippe Futa, Minister of the Economy and Foreign Trade of the DRC - who passed away in October 2009 - to the Secretariat of the *Enhanced Integrated Framework* in Geneva, Switzerland. The study resulted from close collaboration between the DRC Authorities, the World Bank team, officials from the United Nations Development Program (UNDP), the International Trade Centre (ITC) in Geneva, the Delegation of the European Union in Kinshasa, and a team of national and international consultants. All those who contributed cannot be acknowledged here, but we would like to mention some who played a crucial role.

Mr Albert Kwete Minga Bope, Secretary-General of the Ministry of Trade, Mr Charles Lusanda Matomina, coordinator of the *Enhanced Integrated Framework* in Kinshasa, Mr. Franck Ekutu Bonzemba, Senior Economist at the ITC in Geneva, and Ms Emilie Mushobekwa, Economist at World Bank in Kinshasa, were instrumental to the launch of the study, strongly supported by His Excellency Mr Futa, Ms Marie Françoise Marie-Nelly, World Bank Operations Director for the DRC, Mr Jan Walliser, Sector Manager for Poverty Reduction and Economic Management in the World Bank and Mr. Jeroen Willems, Chief of the Economic Governance Section of the Delegation of the European Union in Kinshasa. In Geneva, Ms Christiane Kraus, Chief Coordinator of the *Enhanced Integrated Framework*, played an important role in launching the DTIS in a timely manner as requested by the authorities.

A first draft was submitted to the authorities on January 27, 2010, and the first of a series of workshops organized by Mr. Charles Lusanda and Ms. Veronique Tshiala, respectively coordinator and Assistant coordinator of the Enhanced Integrated Framework in DRC with support from Ms. Lucie Bobola from the World Bank was held in Kinshasa on February 10-11, 2010. Opening and closing remarks heard from His Excellencies M. Anathase Matenda Lyelu, Minister of Finance and acting Minister of Economy and Commerce (represented by H.E. Mr. Césard Lubamba Ngimbi, Vice-Minister of Finance) and H.E. Mr. Norbert Basengezi, Minister of Agriculture, and Mr Dieudonné. Manu Essimbo, former coordinator of the *Comite technique des reformes* (CTR) and current coordinator of the Steering Unit for the Poverty Reduction Strategy and Implementation Process (UPPE), framed the discussions on trade facilitation issues and contributed to the study's revisions. The workshop benefited from discussions led by Mr. Richard Mukundji International Consultant on trade policy, Mr. Robert Ngonde Nsakala and Mr. Thomas Kembola all from the Ministry of Agriculture on agriculture and Mr. Jodel Diongo Belinga OFIDA Deputy Director on trade facilitation, as well as from the contributions of the participants who are listed in Annex 3. Written contributions were received from Mr. Emile Ngoy Kasongo on behalf of OGEFREM, Mr. Boubacar Mbodj on behalf of the Ministry of Commerce, the *Office Congolais de Controle* "OCC", the *Forum National de Developpment et de Politique Commerciale* "FNDPC" and the *Office Congolais de Poste et Telecommunictions* "OCPT". Workshops were held in Kisangani on April 13, Lubumbashi on April 22, Kananga on April 23 and Matadi on May 11, 2010, gathering Provincial Governors and Ministers to share their experiences and views. A second national workshop was held in Kinshasa on July 12-13, 2010 to present the revised DTIS for validation. This workshop was preceded by consultations with companies involved in order to harmonize the different views.

The preparation of the DTIS was supervised by Mr Johannes Herderschee, Country Economist, in close collaboration with lead author Mr Olivier Cadot, Senior Trade Economist, with the support of Ms Erinn Wattie, Junior Professional, and Ms Mariama Daifour Ba at the World Bank in Washington, and Ms Yvette Shungu and Ms Lucie Bobola at the World Bank in Kinshasa. The chapter on trade facilitation was written by Mr. Brendan Horton supported by contribution from Mr. Thomas Cantens, Mr. Philippe Lambrecht, Mr. Charles Lusanda Matomina, Ms. Alexa Tieman and Mr. Ali Zafar. Mr Jean-Paul Chausse is the principal author of the chapter on agriculture, which also drew material from a report prepared by Mr Robert Ngonde Nsakala. Other chapters draw on material prepared by Mr Pierre Pozzo Di Borgo and Mr Lucien Aegerter (transport), Mr Kyran O'Sullivan and Mr Philippe Durand (energy), Mr Jérome Bezzina (telecommunications), Mr André Aquino and Ms Mirella Hernani (carbon trading) and Mr Nicholas Garrett (mining).

Translation was provided by Ms Beatrice Goma and Mr Michel Valois, independent translators and by the translation service at the World Trade Organization, Geneva.

The study was financed with support from the World Bank's operations in DRC, the Secretariat of the Enhanced Integrated Framework in Geneva and the Multi-Donor Trade Facilitation Trust Fund.
The launch workshop in January 2009 and the validation workshop in July 2010 were made possible respectively with support from the ITC and the European Union.

Trade Integration – Opening up the DRC

Trade policy: from tariff reform to "open regionalism"

1. The goal of the DRC's trade policy is to create a regulatory, fiscal and institutional environment in which domestic and foreign trade can develop unhindered, opening up the country's vast territory and integrating it into regional and international trade channels. In this respect, the analyses in this report highlight three priorities: (i) to streamline and reduce port taxation; (ii) to conclude the negotiations on a future EPA with the EU; and (iii) to move ahead with regional integration with the DRC's natural partners. The identification of these priorities is based on the diagnosis of the DRC's macroeconomic and trade performance and the implications of its choices in terms of trade policy.

2. Although it is sometimes said that natural resources are "a curse" when referring to the disappointing performance of many commodity-exporting countries, work carried out recently has shown that an abundance of natural resources is not, in itself, a factor inhibiting growth. What is important for the DRC and for all other commodity-exporting countries is to put in place an environment that is beneficial for all sectors of the economy, in which all people and sectors have access to factors of production in a competitive environment where the rule of law is respected.

3. A stable macroeconomic environment is the essential prerequisite for efficient markets. The Congolese economy, however, has recently been subject to considerable pressures. During the last quarter of 2008, commodity prices temporarily collapsed. Some prices, for example that of copper, subsequently rose at virtually the same speed at which they fell. In addition, disturbances in the Eastern provinces led the Government to increase spending on national defence, financing this through a loan from the Central Bank. This unrest led to market fears concerning the stability of the Congolese franc, helping to cause its depreciation. The authorities' response in terms of macroeconomic policy has been ambiguous, particularly as regards monetary policy.

4. Recent macroeconomic performance reflects these pressures. Growth estimates for 2009 are 2.8 per cent, compared to 6 per cent for 2008 (which was already below the 10 per cent forecast). Inflation that was already high rose from 25 per cent in 2008 to a peak of 55 per cent in spring 2009, before falling below 40 per cent during the summer. The current account deficit reached 24 per cent of GDP in 2008. FDI ranged from 3 to 6 per cent of the GDP (US$200 to US$400 million) from the end of the disturbances until 2007, but then soared to 14.8 per cent of GDP in 2008, subsequently falling back to 5.8 per cent in 2009. It should settle at around 7 per cent of GDP between 2010 and 2012 as a result of mining investment.

5. In terms of global openness (ratio of trade to GDP), the DRC compares favourably with other countries with similar revenue and is within the average of commodity-exporting countries with the same level of revenue. There has been a move towards sectoral and geographical diversification of its exports. In sectoral terms, diversification remains confined to mining products. In geographical terms, China is playing an increasingly important role in the DRC's foreign trade. The DRC's exports, however, generally tend to depend on destinations with a low rate of growth.

6. In theory, the DRC's trade policy complies with its obligations in the WTO. The Government is in the process of reviewing this policy in a bid to boost exports, in line with its regional and multilateral commitments. Thus, the DRC authorities are set to design this trade policy in line with WTO agreements.

7. The DRC's customs duty is today straightforward and not particularly restrictive. It comprises four rates: 0, 5, 10 and 20 per cent. The adoption of this tariff has enabled tariff peaks to be eliminated; a reduction in levels of protection for a large number of imported goods; and a streamlined tariff structure (neutral between industry and agriculture). Nevertheless, the analyses carried out during the missions undertaken for the purpose of preparing this report showed that it is regressive (benefiting those with higher incomes).

8. The apparent simplicity of the customs tariff masks complex port taxation made up of a myriad of micro-taxes, many of them levied by different authorities without any real coordination. This micro-taxation is inefficient because its fragmentation raises the administrative cost of collecting the sums owing. Furthermore, the authorities appear to have an extremely broad measure of discretionary power, according to information obtained from the private sector. The various authorities sometimes appear to impose contributions whose rate and basis are unclear, without taking account of their punitive nature, lowering the return on capital below the level that could be expected in an economic environment as uncertain as that of the DRC.

9. Even more than questions of governance, the important choices facing the DRC in regard to trade policy concern the preferential trade strategy. The DRC has begun negotiations on EPAs with CEMAC but progress to date has been fairly slow. It is important for the national authorities to have a clear idea of the tariff consequences (which are illustrated in this report by means of simulation) and to decide on a strategy in the light of these implications. The results of the simulations in the report suggest a limited impact. It remains to compare these results with the broader aspects of relations with the EU, in a systematic cost-benefit analysis of signing an EPA.

10. The DRC has also signed a number of regional agreements, without, however, implementing their free-trade protocols. As an important player in southern African geopolitics, the DRC should, both for its partners and for itself, clarify its regional integration strategy. This means clarifying the budgetary implications of dismantling tariffs, which are indicated in the report, and relating these to the broader aspects of regional integration. This could yield significant benefits in terms of expansion of trade if it is undertaken with "natural partners". In the DRC, it is difficult to make a quantitative estimate of regional trade flows because many of them go by road and are virtually unrecorded. Anecdotal evidence nevertheless suggests that there is particularly dynamic trade with neighbouring countries belonging to COMESA and the EAC, which are probably the "natural partners" of the DRC. In turn, the commercial benefits generated by lowering tariff barriers can lead to better conditions for combating poverty, particularly in the Eastern provinces. Regional cooperation can also yield benefits in terms of management of public assets (natural resources, environment, business climate, and security).

Facilitation: streamline procedures, define roles, reorganize

11. Trade facilitation means improving the administrative and institutional environment for foreign trade. There are three priorities: (i) to streamline fiscal and administrative procedures; (ii) to

define the roles of the various bodies involved; and (iii) to reorganize Government operators by means of management contracts.

12. Transit at the port of Matadi is slow, complex and costly. It involves multiple and superfluous checks. Three bodies (BIVAC, OCC, CTC) are responsible for customs controls, either directly or indirectly because they control those elements that should be assessed by DGDA. Control procedures are outdated (essentially manual) and marked by a logic of excessive controls and mutual mistrust among those involved. It is by no means certain that these procedures have the desired impact on reducing fraud.

13. The action taken so far to facilitate and regularize the DRC's trade has mainly focused on improving and modernizing the customs. The practical measures taken have been beneficial and will continue to be so in the future. Nevertheless, the customs system is no longer the major concern of economic operators.

14. The main concerns of the private sector are legal insecurity, the rule of "*fait accompli*", the blocking of trade by minor services which manifest their authority in the field and operate in a disorderly fashion that is prejudicial to trade facilitation. International experience of customs administration shows that computerization and the adoption of sophisticated tools such as ASYCUDA ++ must be accompanied by genuine reform of procedures (replacement of systematic controls by risk profiling, etc.), but above all by a change in mindset. The reciprocal lack of trust between private actors and Government departments must progress towards a situation of dialogue and consultation. To achieve this, interference by micro-departments must be kept to a minimum and the mentality of "levies at all cost" must be brought to an end.

15. Interventions by OCC and DGDA are largely redundant and their roles need to be redefined. For example, if DGDA, at the one-stop shop, collects an amount that includes what it calculates to be owed to the OCC on the basis of the information it has determined for customs clearance purposes, the OCC may then make its own estimate of what it is owed based on theCIF value. The values determined by OCC are often higher than those estimated by DGDA for the calculation of import duties and taxes. This leads to disputes and fines, often on a transactional basis, and levies by OCC outside the one-stop shop.

16. State-owned enterprises involved in transit logistics are unable to carry out their work owing to lack of resources and management. ONATRA and other main transport companies (RVM, RVF and CMDC) face identical problems: obsolescent equipment, acute lack of managerial skills, surplus labour force and untenable financial situations. They are thus unable to carry out their tasks and to provide the private sector with the conditions needed for modern logistics. Reorganization is needed, by means of management contracts with terms that ensure transparency and ongoing monitoring, together with acceptable redundancy schemes. The terms of competition in the maritime freight sector (the responsibility of OGEFREM) should also be revised in order to eliminate the advantages enjoyed by certain operators.

17. Major problems in the mining sector, both as regards imports and exports, relate to transport and procedures. This remark can be extended to include most sectors involved in foreign trade. To the absence of highway and railway infrastructure, mentioned below, must be added many problems of procedures and controls throughout the national chain and more specifically those related to (i) crossing borders, both for exports and imports; and (ii) transit corridors, often across two countries.

Infrastructure: reorganize public operators, cooperate with the private sector

18. **Telecommunications.** The telecommunications sector is the "success story" of the decade in the DRC. Nevertheless, it remains vulnerable to political interference and the foremost priority is to guarantee a stable, clear and predictable investment climate to enable this sector to develop.

19. The DRC's telecommunications infrastructure presents a contrasting picture. The fixed telephony network has totally collapsed. The OCPT, the sector's public operator created in 1968, has no financial or operational capacity to carry out its work. There has been no public investment in the public telephone infrastructure since the end of the 1970s. The number of users is inexorably falling to zero. There was no access to submarine fibre optic cables at the end of 2009. Several large-scale projects (by private consortiums) are under way in West Africa, some of which will start to operate in 2010.

20. The mobile telephone network is booming, despite the problems currently caused by the global financial crisis. The number of mobile telephone users rose in eight years (from 2001 to 2009) from 158,000 to 11.2 million, pushing density up from 0.3 per cent to 18.6 per cent. This high level underlines the potential of the Congolese market when the conditions are ripe to attract international investors. This is the most dynamic sector in the domestic economy, with turnover exceeding US$850 million, putting it in second place after mining. In 2008, it contributed over US$160 million to the State's finances, accounting for one third of fiscal revenue on its own.

21. Because of competition, rates have fallen by half since 2003. This benefits users, but reduces operators' profits, even though large sums have been invested. Moreover, the sector has been badly hit by the international financial crisis and therefore remains highly vulnerable.

22. The telecommunications sector is insufficiently regulated. The cost of interconnection is determined by the Government at a level that is too high. The reference network envisaged in the law has not yet come into being and mobile operators have developed their own infrastructures independently, although their legal status is, to say the least, ambiguous. This legal uncertainty could prove fatal to future investors, particularly in a business climate that has traditionally been subject to abrupt changes. In April 2009, the sector's fiscal regime suddenly deteriorated when the excise taxes adopted in 2008 came into effect, making an already heavy fiscal burden even heavier. Combined with the crisis, this fiscal blow virtually brought all investment to a halt. In fact, in such situations, it is not only the cost of the fiscal measure that penalizes investment, but above all the message it conveys that private revenue generated by taking risks and by efficient management can at any time be taken unawares by unexpected taxes.

23. **Transport.** The DRC is currently engaged in a major effort to renew its transport network. The challenges to which the Government needs to give sustained attention include (i) continuation of the current plans to rehabilitate the main corridors; (ii) linking development of the transport infrastructure network to the future needs of the country's agricultural sector; and (iii) introduction of PPPs to guarantee ongoing financing for the infrastructure's maintenance.

24. Many parts of the country are currently not accessible. Out of the ten provincial capitals, only two (Matadi and Mbandaka) are linked to the capital by a sealed road or packed earth road, two only by water (Kisangani and Bandundu) and six solely by air (Kananga, Mbuji-Mayi, Lubumbashi,

Kindu, Goma, Kisangani, and Bukavu). The country's road network is in an advanced stage of dilapidation because of lack of maintenance. Only 5 per cent of the 58,000 km. of the country's national roads is sealed. Road transport is carried out by a large number of small informal enterprises which engage in pitiless competition and frequently overload their trucks. Despite the competition, road transport costs are usually very high.

25. Traffic on the SNCC's rail network (about 200 million ton - km in 2009) is around one-tenth of the tonnage of the 1970s. The poor state of the network means that speed is restricted to 10-35 km/hour. In the South-East, the railway does not play its natural role as a means for transporting copper exports. These largely go by road because of the discriminatory rates charged by the Zambian rail operator for Congolese copper. The cost of rail freight is US$0.15 per tonne/km, almost three times higher than the rate applied elsewhere in southern Africa.

26. The Congo River is an important mode of transportation for the North-West of the country, but improvements are needed to make better use of the service. The DRC has 15,000 km. navigable on the Congo River and its tributaries, linking Kinshasa to Kisangani in the interior. Long stretches of the river cannot be used during the four months of the dry season, however, because there is no dredging. The lack of sufficient investment in navigation aids and port facilities along the river also makes navigation difficult. The majority of river transport is carried by small-scale informal operators. In 2007, ONATRA recorded 240,000 tonnes of freight and 221,000 passengers, mainly between Kinshasa and Kisangani. The true figure is probably well above 1 million tonnes of freight. At a cost of US$0.05 per tonne/km., rivers are a highly competitive mode of transport.

27. In terms of investment priorities, a study carried out by the World Bank shows a high potential IRR for rehabilitation of the Matadi-Kinshasa railway, the port of Matadi, and the Kinshasa-Kisangani river corridor. There are, however, important issues concerning priorities for access to the sea from Kinshasa, the construction of a continuous rail corridor between Pointe Noire and Kinshasa (over a bridge across the Congo River) being one important option. In addition, the studies carried out during the missions undertaken for the purpose of preparing this report highlighted the fact that the agricultural sector is highly disadvantaged by the difficulty of market access, particularly because of the lack of rural roads. Lastly, international experience shows the importance of introducing the procedures (pricing and management methods) needed to maintain the network.

28. **Energy.** It is in the area of energy that the contrast between the physical availability of the resource and its economic availability is the most striking. The DRC could produce enough electricity to cover the needs of the whole continent, but is currently suffering from an energy shortage. The Government should (i) implement plans to renew generating and distribution capacity; (ii) reorganize the SNEL and guarantee a stable and transparent investment climate; and (iii) introduce the management methods (PPPs, prepayment schemes, realistic pricing) required to ensure a return of private investment to this sector.

29. Energy supplies are currently subject to numerous power cuts. The maintenance and repair of the facilities is done on an ad hoc basis, only in cases of emergency; the equipment is now obsolescent or malfunctioning. Most industrial users have to use emergency generators to protect themselves against the frequent power cuts and avoid sizeable production losses. The cost of using emergency generators can be as high as US$0.63/KWh. There is a deficit of 900 MW in electricity distribution in the Katanga mining region.

30. Private sector participation is needed to renew the DRC's energy infrastructure, but this implies a clear regulatory framework, particularly as regards the relations between the central authorities and the provinces and the form of regulation (by contract or by agency). It also requires clarification of relations with the SNEL, which is virtually bankrupt and whose liabilities do not make it a viable partner. If it is to be modernized, the national electricity infrastructure has to be reorganized, which implies, *inter alia,* a redundancy scheme and the introduction of a prepayment system.

Mining, agriculture, timber industry: attracting investment for sustainable development

31. The lack of diversification means that only three sectors produce economically significant and tradable goods. In the mining sector, the Government's priority should be to provide a transparent and stable climate for investment in which contracts and property rights are clearly established and respected. In the agricultural sector, there are three priorities: (i) to improve the functioning of key markets (land, labour and credit); (ii) to introduce a national plan for renewal of biological material; and (iii) to create better conditions for market access as also discussed in the sections on trade policy and transport. Lastly, as regards forestry, the Government should focus on sustainable development of the sector, notably by preparation for participation in the REDD programme.

32. **Mining.** The Congolese mining sector is still far from having realized its potential. It has only made a marginal contribution to growth until now (less than one tenth of total growth in 2006, whereas it's potential is at least one quarter). Although it is capital-intensive rather than labour-intensive, its development could have several carry-over effects. It is estimated that some 200,000 people directly or indirectly depend on the industrial mining sector and close to 10 million Congolese are dependent on small-scale mining alone. In the Eastern part of the country, over 1 million people depend for their income on mining export-related transport chains.

33. In the industrial mining sector, Gécamines, a State-owned enterprise, is virtually bankrupt. Crushed by its debt burden (US$1.67 billion), it is losing US$15-US$20 million each month. Its labour force, numbering 12,000, bears no relation to its actual activities or to its financial capacity, because it owes up to 47 months of wage arrears to its employees. It recently signed an agreement on the establishment of a business partnership - Sicomines - in which the Chinese Government owns 68 per cent.

34. In the mining sector, as in other sectors of the DRC's economy, the State's capacity to provide public goods is severely constrained by problems of governance. The CAMI's cash flow is being siphoned off and it is unable to fulfil its task.

35. The fiscal burden on the mining sector is around 56 per cent of its earnings, to which must generally be added 15 to 25 per cent as informal payments. The combination of the two forms of taxation is close to 80 per cent, in other words, around double the level acceptable in the industry. The total tax burden in the sector appears to be related, *inter alia*, to the proliferation of governmental agencies with taxation powers that intervene. The *modus operandi* of fiscal and parafiscal actors often consists of identifying a problem, whether real or not, in a company's operations and imposing fiscal penalties together with a payment note covering up to 40 per cent of the penalties in question, but payable immediately, either in cash or into a separate account. The remainder is then negotiated downwards.

36. The DRC has been a candidate for the EITI since February 2008, and the implementing decree was signed in July 2009. Investors consider the adoption of the EITI to be a positive sign. The year 2010 will be crucial for the credibility of this commitment. The first EITI report was published in March 2010, and based on that progress the country was granted another 6 months to complete the validation process.

37. Conflicts of interest between the central Government and provincial authorities sometimes lead to measures for which private operators pay the price. For example, 3,000 tonnes of copper exports from one of the leading operators in Katanga were temporarily banned by the provincial authorities in August 2009, seemingly with the aim of negotiating the sharing of the revenue with the central Government.

38. One element indicative of the problematic business climate in the DRC is the amount of legal costs incurred by mining companies. According to certain estimates provided by mining companies in Katanga, these amount to US$5 million annually. In comparison, legal costs are around US$400 to US$500,000 in Indonesia and some US $200,000 in Canada. The business climate in the DRC's mining sector therefore needs visibility and stability. As in the other wealth-generating sectors, the Government of the DRC has to choose between making these sectors a source of fiscal revenue or a showcase for foreign investors. The division of responsibilities and fiscal revenue between the central Government and the provinces needs to be clarified and cease giving rise to trials of strength of which private investors are often the victims. The independent agencies set up to guarantee the impartiality of decisions on awarding important rights, such as the CAMI, must be held accountable according to their assigned mission, and must be given sustained financing and the means of fulfilling their tasks.

39. **Agriculture.** Agriculture is the cornerstone of the Congolese economy. Although its share of national revenue is falling, as is also the case in other countries, in 2006 it still provided 40.3 per cent of the GDP (compared to the 12.8 per cent provided by the mining sector, for example) and employed three quarters of the working population. Of all sources of growth, the agricultural sector has the greatest potential for poverty reduction.

40. The DRC has enormous agricultural potential. It has 80 million hectares (ha.) of arable land, of which 4 million can be irrigated. The diversity of climates, abundant rainfall, and the presence of large quantities of surface water mean that many products yield several harvests each year. Cassava and market gardening in semi-urban areas have the potential to feed the local population. Palm oil, rubber, tea, and coffee generate substantial export revenue. Pastureland could support 40 million head of cattle. Lastly, inland waters could enable over 700,000 tonnes of fish to be produced.

41. At the present time, this potential is largely under-utilized. Of the 80 million ha. of arable land, only 28 per cent (23 million ha.) are under cultivation and only some land used to grow rice and sugar cane is irrigated. Agricultural output has steadily dropped for the past 50 years, to 70 per cent of its 1960 level in 1990 and 50 per cent in 2000.

42. Despite the DRC's low population density (22 inh./km.^{2}), access to land is a problem when creating new industrial plantations. While setting up small or medium-sized farms does not present any problems, the creation of large agricultural concessions with adjoining properties is problematic, particularly because property laws are ambiguous, reflecting the gradual change from customary law to modern property law. The DRC must give itself adequate legal instruments so that concessions can be granted transparently in a way that is acceptable to the local population.

43. The labour market reveals another paradox. Despite a dynamic birth rate, industrial plantations indicate that agricultural labour and technicians are scarce and that there is a very high rate of absenteeism - up to 20 per cent on some plantations. The violence that affected the country has caused mass rural migration. Competent technicians are extremely rare, even at a modest level of technical expertise, and plantations that train their own personnel run the risk of seeing them leave to seek alternative employment elsewhere once they have been trained.

44. Lastly, there is only very limited access to credit in the Congolese economy overall. The banking system, which has fewer than half a dozen commercial banks, is not very extensive (300,000 accounts) and mainly exists in the principal provincial passtowns and in the capital. Constraints on access to credit are particularly prejudicial as the DRC's agriculture is suffering from a patent lack of investment in biological material (plant material is old, not very productive, and vulnerable to a large number of diseases) and in agricultural machinery. The need for investment is such that only substantial participation by foreign investors in a revived plantation sector can provide a response to market opportunities. In addition, export procedures need to be streamlined and the numerous levies strictly limited, while at the same time security and trade facilitation at the Eastern border have to be improved.

45. **Timber industry.** Taking into account a radius of 80 km. around the main navigable waterways, the DRC has a potential unique in Africa of some 55 million ha. to be exploited, corresponding to annual output, if managed properly and with a rotation of 30 years, of 6 million m^3. Moreover, the long stretches of navigable waterways would allow the timber to be transported over long distances at low cost.

46. The production potential of the timber industry is very far from being realized, output could easily be multiplied fourfold. Forestry and agro-forestry plantations are as yet little developed in the DRC and are the result of private initiatives with strong support from international cooperation. They should be developed around Kinshasa, on the Batéké plateau as part of the carbon sink project (IBI project) and the project for the industrial production of charcoal combined with agriculture in Mampu (Mampu project, with European Union support). There is a similar experiment in the Luki biosphere reserve (Bas-Congo), combining reforestation and sustainable agriculture, under the direction of the WWF.

47. To the physical insecurity in forested areas must be added that of the business climate. Almost all the fiscal levies in the timber industry are imposed by Government departments and local authorities on the basis of non-existent services. The revenue generated by these ad hoc levies therefore vanishes before reaching the Treasury. The fiscal reform in this sector, adopted in 2004 following a review of the forest sector, does not appear to have been effective. The preconditions for participation by the private sector in sustainable development of Congolese forests are the same as elsewhere: an end to unofficial parafiscal levies, clarification of property law and the regulatory framework for investment, introduction of mechanisms for governance and consultation of the local population, better security, and investment in the transport infrastructure.

48. Furthermore, Congolese forests constitute an important "carbon sink" at the global level and are therefore a latent asset in the same way as mining or hydro-electric resources. They are the foremost carbon sink on the African continent, with a carbon stock estimated to be 40 gigatonnes in their 145 million ha. In contrast to the situation in other countries with large forests such as Brazil, this asset remains almost intact in the DRC, where the annual rate of deforestation has not yet risen

above 0.27 per cent. Utilizing this resource in the form of credits could therefore make it into a non-negligible source of revenue.

49. The REDD mechanism has particular potential for the DRC because its aim is to compensate tropical countries with forests for the emission reductions caused by the loss of forest cover. The REDD's operating methods are currently being negotiated, including the source of funds (carbon market and/or international fund financed by Governments) and the scope of the activities to be offset. It is likely that sizeable resources will be available in the future. The DRC is at present preparing the REDD, with the support of the World Bank's FCPF and the UN-REDD programme, involving the preparation of a nation-wide reference scenario, a national deforestation monitoring strategy, and the introduction of a system for following up and verifying emissions caused by deforestation.

Chapter 1 Implementation Recommendations

1.1 **This chapter presents the matrix of reforms but also offers suggestions for the sequencing of the reforms.** The action matrix synthesizes all the main recommendations covered in the body of the report. These are practical recommendations which have emerged from the interviews conducted by the various missions that participated in preparing the DTIS - national experts, international consultants, and World Bank staff - together with national economic actors. These included, in first place, representatives of the Congolese authorities, with whom there was ongoing dialogue, but also representatives of the private sector, whose point of view is of critical importance for the drafting of recommendations that are in line with the real situation in the field. The recommended sequencing of reform is based partly on these consultations but also taking account of technical constraints and an interpretation of political economy considerations.

1.2 **The recommendations presented in the matrix follow the presentation of each chapter.** The presentation of the policy measures reported in the matrix is tailored to the discussions with DRC counterparts. In most cases the information is arranged according to the agency or agencies potentially concerned by their implementation, the timeframe for implementation, the objective sought, and the intermediate measures whose adoption would enable the follow-up to be monitored. This presentation cannot, however, replace political reflection on the national trade integration strategy. Their objective is to provide avenues for consideration by the national validation workshop and, beyond that, paths for action by the national authorities and donors. At the same time the text provides a possible approach on the sequencing of these reforms so as to create reform momentum that will make them

1.1 SUGGESTIONS FOR SEQUENCING OF REFORM

Toward a strategy for trade policy reform

1.3 **Trade policy is a cross-cutting issue in all countries and can only be effectively addressed through institutional arrangements that allow coordination among relevant parties.** Coordination among the relevant parties has proved to be particularly challenging in DRC which is emerging from a post-conflict situation transiting to a most predictable development. In this environment it may be desirable to prepare formal cooperation arrangements between the DRC Secretariat for the Enhanced Integrated Framework (EIF) and the other agencies that coordinate policies across sectors and ministries. The EIF Secretariat has already well established links with the private sector and the FEC, but it could benefit from more formal contacts with the Technical Reform Committee (Comite Technique de Suivi des Reformes, CTR), the PRSP unit (UPPE) and in particular the offices of the Prime Minister and the President. Such coordination could consist of preparing short notes on key issues that are then made available to the parties involved.

1.4 **The DRC-EIF Secretariat should move quickly to establish its analytical capacity to inform the trade policy debate.** From a policy perspective it is desirable that Government and politicians in general are better informed about the impact of alternative policies on imports, fiscal revenues and production. The DTIS documents that a tool for such assessment is available and can be applied to various trade policy options the DRC authorities may wish to consider. Appropriation of this tool, the TRIST model, as presented in the DTIS could be a first step towards capacity building for the DRC-EIF Secretariat.

1.5 **In terms of priorities, the DRC-EIF Secretariat may want to focus on issues where progress is possible in the near future.** An issue where progress may be feasible is in the EPA negotiations with the European Union. Such partnership will offer little in terms of duty free access to an important trading partner; most of DRC's exports already receive duty free access under various schemes. However, it will deepen the relations with the EU and expose DRC policy makers and managers of private firms, notably in the services sectors, to the regulatory environment of the EU. Similarly, the DRC-EIF may aim to deepen the relations with trading partners in regional groups in Africa. Good relations between policy makers will help to foster business connections that are an important ingredient to economic growth and trade.

1.6 **There are also good prospects for rapid growth in cross-border trade in some of the DRC's provinces.** Working with the provincial authorities in the DRC provinces the DRC-EIF Secretariat may wish to explore the areas where such trade could expand. Some of the examples are the border crossings in Kinshasa/Brazzaville, Goma/Gisenyi, Bukavu/Cyangugu, and Kasumbalesa. However, reportedly there is also significant trade between Kasai Occidental and Angola and Equateur and the Central African Republic. The DRC Customs Administration has already addressed some of these issues in the Great Lakes Region borders by introducing the 'grandes barrières' and 'petites barrières' border crossing concept. This concept facilitates trade for small traders, mostly women, and could be applied to other border crossings provided it is supported by both the national and provincial authorities.

1.7 **The Secretariat may want to follow up with a focus on strategic border crossings where trade liberalization could have a big impact on DRC's national economy.** Three entry points dominate DRC's external trade; Matadi, Kasumbalesa and Goma. This is a reflection of geography, infrastructure and links to continental trade corridors. Improvements in the trade procedures at these entry points as well as the Kinshasa/Brazzaville crossing are likely to remain the most important for years to come. Hence policy changes that reduce the transaction time and costs at these border crossings will make a disproportionate contribution to economic development, which may justify a focus on these entry points. The Kinshasa/Brazzaville transit point is currently not one of the most important entry points to the DRC, but could rapidly develop if policies to liberalize the river crossing are implemented to allow the cities to benefit from their clear complementarities.

1.8 **Progress with the above-mentioned specific initiatives will set the stage to tackle the big strategic issues over time.** DRC's location in the heart of Africa with borders with 9 neighboring countries allows it to have a decisive influence over the development of the continent in terms of trade policies and practices. However, the importance of the issues and the strength of the commercial interests involved also make it imperative to build confidence, experience and institutional capacity before dealing with issues of continental trade policy which are currently being addressed by COMESA and CEMAC. Hence while DRC will have a deciding influence over time, it may want to focus first on the specific issues listed above.

Strategic choices in trade facilitation reform

1.9 **The key issues that need to be addressed in a trade facilitation policy reform are the 'time spend', the financial costs and the management of risk.** Time spend should be addressed first, partly because this can be addressed with a purely technical reform that also contributes to managing the risks involved. Since reforming financial costs will be more challenging due to the strength of parties who benefit from the current system, focus should be put on the provision of services. While the costs may be high, some of the agencies involved do deliver important services, such as port and dredging services in Matadi, and rail services at the Kasumbalesa border crossing.

1.10 **Inspections should be carried out for only part of imports, based on analysis of risk.** Physical inspections of imports are time and cost consuming, and hence thorough inspection should be reserved for high-risk import consignments, while transit of regular consignments should be facilitated with little time or costs involved. A move toward risk-based inspections as practiced in other countries would limit inspections to well-targeted consignments. The ongoing introduction of *Asycuda World Customs Administration System* could help with the identification of the high-risk consignments, reduce paperwork and limit the risk of fraud and interference. In addition to technical equipment, a move towards risk-based inspection also requires a revamped legal framework, in particular the adoption of the new customs law.

1.11 **Risk-based customs inspections should be the beginning of a process that processes consignments at a single window, the '*guichet unique*'.** DRC authorities have already introduced a single window at two key border crossings, Matadi and Kasumbalesa. However the benefits have been limited because of continued parallel processing of all paper work and the system has not been used to single out high-risk consignments for detailed inspection. A move towards using the single window for the identification of risk-based inspections could yield significant gains in time and costs.

1.12 **Centralization of payment of all fees -preferably through a bank deposit or transfer only - could also reduce costs and bring the agencies that deliver public services on budget.** Mandatory bank transfer payments increase transparency and reduce the risk for corruption, and offer the added benefit of centralizing payment receipts. Such centralization would provide an opportunity to bring those agencies that deliver public services on budget while ensuring that agencies that deliver private services charge costs that are proportionate to services rendered, as required by the WTO GATT 1947 agreement. The benefits of public services go beyond individual transactions and thus the costs of these services should not be tied to individual transactions. Typical public services are health and safety inspections but there are many others, some of which may be specific to the DRC. Agencies that are involved in the delivery of this type of services should be funded by the state on the basis of their budgetary needs and not depend on trade flows as is currently the case.

1.13 **In addition to these pure trade facilitation measures the authorities may also want to address other related issues.** The requirement for insurance by the DRC national company poses an obstacle to cross-border trucking services. Hence the authorities may consider working on these issues although they are not directly part of the narrow trade facilitation agenda.

Sequencing in infrastructure reform

1.14 **The three infrastructure sectors discussed in this report – transport, power and telecom – have very different market structures.** In the transport sector a number of different structures exist in the various subsectors. Trucking is characterized by small-scale private companies; while at the other extreme public monopolies continue to dominate rail traffic. L'ONATRA, RVF and other companies involved in maritime transport are important but their market share varies by type of activity. While the power and telecom sectors could have developed a similar market structure, they are both industries with strong network effects; in practice their market structure is very different.

The telecom sector is dominated by private companies while the incumbent state operator in the power sector continues to dominate.

1.15 **In the road sector the first priority is maintenance followed by further investment and a reform of the key state-owned operators**. During recent years, there has been progress in opening up roads; in the case of agricultural roads such progress has exceeded projections. However, maintenance and operations of roads that have been opened up is increasingly an issue. While road user charges are levied in some cases - even at very high levels in the case of road in eastern DRC - the resources are not adequately applied to maintenance and operations. The same issue applies to other transport sub-sectors where it has been used with varying degrees of success. User charges in the civil aviation sector appear to work well while the management of user fees in the maritime transport sector has been more challenging. Reform of the incumbent state-owned enterprises is crucial to efficiency gains in the rail and maritime transport sectors as acknowledged in the Government's Transport Sector Reform Strategy that was officially adopted in December 2009.

1.16 **The power sector could move ahead with allowing private companies to provide electricity followed by regulatory reform and a reform of the incumbent.** Private power producers are already active in DRC, in particular in provinces where mining companies can take the initiative. This is welcome as it allows an immediate need to be addressed, despite the irony of private providers in a country that is home to the world's most powerful potential source of hydroelectricity. At the same time the move towards private power supply has been un-transparent and subject to ad hoc arrangements. These issues need to be addressed in the regulatory reform strategy. This strategy should also deal with the reform of the incumbent state-owned company SNEL to allow it to respond to market pressures.

1.17 **In the case of the telecom sector, private companies are already dominant and regulatory reform should have priority followed by establishment of PPP arrangements.** The Government of DRC is adopting a new ICT Strategy and Policy document that was developed with support from the World Bank. This strategy will clarify the access to international gateways and also allow the establishment of PPP arrangements in this sector. Going forward the authorities may choose to complement this approach with a reform of the incumbent state-owned company. The economic activities of this company are modest but need to be restructured to maintain broad support for policy reform in this sector.

A mining reform strategy

1.18 **The mining sector poses specific challenges because of its high level of integration with the world economy.** The sector is much more integrated with the world economy than other sectors, both in terms of exports and in terms of ownership of key mining operations. Thus, relations with foreign markets and investors are in this sector more important than in other sectors. Within this context, the 2002 Mining Code and some of the contracts that govern these relations include a provision to seek arbitration of disputes from an arbitrator outside the DRC. Following the review of mining contracts initiated by the DRC authorities in 2007, some international investors are challenging the results and have submitted them to arbitration procedures as provided in the original contract.

1.19 **Equal treatment of all investors in the mining sector should be ensured in a transparent manner.** The road from the current environment to such equal treatment of all investors is long and will take time. A World Bank/DFID project is taking the first steps towards a comprehensive reform strategy focusing on access to resources, sector management capacity building, transparency, accountability and sustainable development. Other donors are working with the authorities on specific issues, such a traceability (GTZ). However, some issues, such as the reform of mining SOEs in general and Gecamines in particular, are loaded with complex socio-economic and political challenges. Addressing these issues thus will require a longer term process, including the development of a clearer political consensus.

A strategy for moving towards agricultural growth

1.20 **The Government adopted a new agricultural strategy in March 2010.** The Government's strategy envisages four key initiatives: (i) improving marketing efficiency; (ii) enhancing productivity of traditional, smallholder-based agriculture; (iii) re-capitalization of the agricultural and livestock production sector through farm investments; and (iv) providing decentralized and de-concentrated support services to a broad range of community-led initiatives. Despite this strategy and although the country has made progress in economic reform, very little resources has been allocated yet to support the sector's growth.

1.21 **Given the rural dimension of extreme poverty and the multifaceted nature of this issue, the authorities are advised to work on a harmonized strategy of agriculture and rural development, and to pursue the decentralization of decision making processes, including budget execution in the agriculture and rural development sector.** This will allow better targeting priorities and orientation of public services to poor communities. The authorities may also want to consider that the expansion of extension services through either public or private arrangements. The latter may depend on the ongoing restructuring program of the Ministry of Agriculture and the planned institutional restructuring program of the Ministry of Rural Development.

Capturing the benefits from DRC's forests

1.22 **The Government may want to continue to emphasize fiscal revenues from forestry activities and on sharing these fiscal revenues with provinces and territories as mandated by law**. The policy and legal framework for sustainable forest management has improved significantly during recent years. The rights of local communities and indigenous people living in or close to the forest concessions have also been strengthened. In this context, it is important to ensure that the rural poor will benefit from improved forest management, e.g. through tax receipts from forest concessions and through the establishment of social infrastructure (schools, health care, farm-to-market roads) by concessionaires. There has been substantial progress in tax reporting by the forest companies, but there still is a need for better control of illegal exports of "informal" sawn wood to neighboring countries in the Great Lakes region. DRC has been at the forefront of climate change mitigation and is one of an elite group of countries that had its Readiness Plan (RPP) for Reducing Emissions from Deforestation and Forest Degradation in Developing Countries ("REDD") formally approved. The authorities may focus on the implementation of a US$25 million program that is put into place to implement the RPP and generate carbon credits under the REDD scheme. The Scheme is expected to be endorsed by the next Conference of the Parties to the UN Framework Convention on Climate Change.

1.2 RECOMMENDATIONS ON TRADE PERFORMANCE AND POLICY

Prop. No.	Subject	Proposed measure	Agency responsible for implementation	Technical obstacles	Institutional obstacles	Time-frame for implementation	Expected outcome/ Intermediate performance indicator	Potential sources of financing
1	Alignment between trade policy and regional and multilateral commitments	Review of the country's WTO trade policy ; Implementing recommendations from the review of trade policy	Ministry of Trade and other Ministries targeted for the implementation of the recommendations	Lack of awareness of multilateral commitments and disciplines; Inadequacies in follow up of WTO activities	Lack of coordination between the various State Ministries and agencies dealing with trade policy	2010-2011	Lack of coordination between the various State Ministries and agencies dealing with trade policy	WTO; MTS ACP Programme ; 10th FED Trade Program
2	Building negotiating and follow up capacities in trade policies	Improving the operations of the National Forum on Development and Trade Policy (FNDPC) for a better follow up of multilateral, regional, and bilateral trade policies. Strengthening the analytical capacity of the Trade Ministry	The Ministry of Trade	Low capacity to analyze negotiations and to evaluate the impact of trade agreements.	Absence of dialogue between the various stakeholders. Lack of a consultation mechanism for stake holders	2010-2011	Improved coordination and efficiency in follow up of country's trade policy	TradeCom Program; 10th FED Trade Program
3	Development of intra-regional trade	Adoption and gradual implementation of existing Trade Protocols relating to sub-regional free trade (ECCAS, COMESA, SADC)	Ministry of Trade ; Ministry responsible for regional cooperation ; Ministry of Finance	Tremendous customs and administrative obstacles to trade development.	Possible loss of customs revenue and uncompetitive local production	2010-2013	Free movement of goods; Increased intra-regional trade	Existing regional funds.

Prop. No.	Subject	Proposed measure	Agency responsible for implementation	Technical obstacles	Institutional obstacles	Time-frame for implementation	Expected outcome/ Intermediate performance indicator	Potential sources of financing
4	Utilization of preferential trade agreements	Development of a strategy to increase exports	Trade Ministry	Supply constraints ; Technical barriers to access to markets (Regulations by WTO, SPS	Absence of a trade promotion unit	2010-2011	Diversification of the export sectors and markets	International Trade Center UNDP
5	Evaluation of the impact of trade policy on the sectors and areas indicated	Institutional capacity building to facilitate data collection and analysis	Ministry of Planning, Ministry of Trade, and Ministry of Small and Medium-sized enterprises	Automation of customs data and the preparation of statistics based on information collected	Coordination of agencies involved	2010-2012	Preparation of data on trade flows and resumption of studies on the selected sectors and channels	ADB, UNDP, UNCTAD and /World Bank

1.3 TRADE FACILITATION RECOMMENDATIONS

No.	Issue	Action	Responsible agency	Principle obstacles		Time table	Indicators	Possible donor support
				Technical aspects	Institutional challenges			
1	Implementation of an effective single window	Use existing centralization of procedures and discontinue parallel paper processing	Office of the Prime Minister	See below	Coordination among various government agencies involved	2010-11	See below	À déterminer
1a	Decision on revised procedures based on an evaluation of the alternatives	Evaluation of alternative organizations, possible including a visit to countries that apply these procedures	Office of the Prime Minister, DGDA, Ministry of Commerce, Ministry of Transport	Formulation of new laws and regulations	Coordination among various Government agencies involved in this process	2010	New procedures are issued	EU and World Bank
1b	Organization of a tender for a single window	Preparation of relevant documents	Office of the Prime Minister	Preparation of tender documents	Agreement among parties involved that need to agree to support the revised process	2010	Tender documents publicly available	EU and World Bank
1c	Selection of the winning bid	Evaluation of the proposals	Office of the Prime Minister	Technical evaluation of proposals	Transparent consideration of the various alternatives, documentation why winning bid was selected	May-11	Winning contractor is informed	EU and World Bank
1d	New procedures effectively implemented	Single window is in place and is effectively administered	Office of the Prime Minister	Technical evaluation of single window	Mobilization and maintenance of continued support from the various agencies for this approach	Sep-11	Single window in place	EU and World Bank

No.	Issue	Action	Responsible agency	Main obstacles		Time table	Indicators	Possible donor support
				Technical aspects	Institutional challenges			
1e	Conformity of external trade procedures and formalities	Effective implementation of the WTO agreements on “customs assessment”, “pre-shipment inspection”, “import licenses”	OFIDA, OCC, Central Bank, BIVAC	The obligations arising from multilateral agreements have not been mastered	The financial resource gap to be filled	2010-2011	Simplifying external trade procedures and reducing cost overruns incurred by economic actors	To be identified
1f	Elimination of ad valorem taxes other than customs duty	Taxes other than customs duty are calculated using the actual cost of the service provided.	OFIDA, OCC, OGEFREM, FPI	Dropping ad valorem taxes will result in a revenue shortfall for the beneficiary agencies	Lack of alternative financing for the bodies receiving these taxes	2010-2011	Reducing cost overruns incurred by economic actors	To be identified
2	Risk-based inspections by all relevant agencies	Revision of the relevant regulations and procedures and their enforcement	Various, see below	Agencies such as OCC inspect on the basis of information provided by ASYCUDA	Coordination between the relevant agencies	2011	Share of import transactions inspected by the relevant agencies	EU and World Bank
2a	Reform customs activities	Adopt new customs law, issue implementing regulations, adhere to the reform.	Ministry of Finance	Formulation of new laws and regulations	Adoption of the law by Parliament and promulgation of the law and implementing regulations.	2010	Share of total import transactions that is inspected by customs	EU project has been approved and will start shortly
2b	Reform OCC	Harmonization of the activities of DGDA and OCC within the framework of the single window	OCC/Ministry of Commerce and Small and Medium-sized enterprises	OCC is provided access to the ASYCUDA information	Coordination between OCC and customs	2011	Share of total import transactions that is inspected by OCC	To be identified.

3	Bring agencies with a public service mandate	Revise legal framework for the relevant agencies	Mininstry of Finance and sector ministries	See below	Coordination between single window and public service agencies	2012	Publication of audited accounts of public service agencies	To be identified.
3a	OCC	Revise legal framework for OCC	Ministry of Commerce and Small and Medium-sized enterprises	Legal, managerial and possible an audit of OCC	Coordination with other agencies	2012	Publication of audited accounts of public service agencies	To be identified.
3b	OGEFREM	Revise legal framework for OGEFREM	Ministry of Transport	Legal, managerial and possible an audit of OGEFREM	Coordination with other agencies	2012	Publication of audited accounts of public service agencies	To be identified.

No.	Issue	Action	Responsible agency	Principle obstacles		Time table	Indicators	Possible donor support
				Technical aspects	Institutional challenges			
4	Revise the cost structure of agencies that deliver private services in line with services rendered							
4a	RVM fees are very high, and service quality low, compared to international norms	Revise RVM tariffs in line with international norms on basis of strategic and financial audit	RVM and appropriate technical ministries	RVM has numerous technical and financial management problems, including lack of appropriate equipment and unfunded social liabilities	Social liabilities of RVM should be addressed.	audit: 2012; new tariff in force in 2013	RVM tariffs are at least 25 lower than at present, channel dragged to 24-26 feet	To be identified.
4b	Port of Matadi fees are very high, and service quality low, compared to international norms	Revise Port of Matadi tariffs in line with international norms on basis of strategic and financial audits, and improve service quality	Port of Matadi, ONATRA, Ministry of Transport and Ministry of Finance	Port of Matadi has numerous technical and financial management problems, including lack of appropriate equipment, unfunded social liabilities, and high transfers to ONATRA	Social liabilities of ONATRA should be addressed.	audit: 2012; new tariff in force in 2013	Port of Matadi at least 25 percent lower than at present, and port operations faster	To be identified.
4c	RVF service quality is low compared to requirements	Revise RVF tariffs in line with international norms on basis of strategic and financial audit	RVF and and appropriate technical ministries	RVF has numerous technical and financial management problems, including lack of appropriate equipment and unfunded social liabilities	Social liabilities of RVF should be addressed.	audit: 2012; new tariff in force in 2013	RVF tariffs significantly lower than at present, channel dragged to 24-26 feet	To be identified.

No.	Issue	Action	Responsible agency	Principle obstacles		Time table	Indicators	Possible donor support
				Technical aspects	Institutional challenges			
5	Improving trade regulations							
5a	Foreign transport companies that enter DRC are required to be insured by DRC company	Revise insurance law or provide exemptions that allow transport companies to be insured by Great Lakes or Zambian insurance companies	Ministry of Finance	Designing a new insurance law, possible allow cross border supply in the Great Lakes Region and Katanga starting earlier under an exemption to the current law.	Social liabilities of the incumbent insurance operator	Cross border supply in the Great Lakes Region and Katanga starting in 2012, country-wide reform in 2013.	Is the insurance provided by non-DRC companies valid in DRC yes/no	GTZ and others to be identified.
5b	Adoption of a new trade code	Revision of trade law and its accompanying regulations. Establishment of a competition and consumer protection policy	Ministry in charge of Trade; Ministry of National Economy	The current regulation is counter to the principles and norms associated with an open economy. Many provisions have become obsolete vis à vis the country's commitments	The existing institutional set up does not involve the private sector and civil society actors in decisions concerning the implementation of trade regulations	Initial version by end 2011 final version by 2012	Number of recorded visits to website	To be identified.
5c	Improving the law governing companies and businesses	Implementation of the OHADA treaty	Ministry of Justice	The implementation of the OHADA treaty involves the transposition of all the uniform codes into positive Congolese law and the reorganization of the procedural handling of business cases.	Judges have not yet mastered the new issues introduced by OHADA. Alternative dispute resolution mechanisms for business cases are still not very well developed.	Preparatory work in 2011, new law sent to Parliament in 2012	Draft law send to Parliament	To be identified, these could be the same donors working on OHADA

5d	Accessibility of trade laws and transparency in their application	Combining the laws into a commercial code Creation of a web portal providing access to the various laws and the applicable administrative procedures	Ministries of Justice, Trade, Telecommunication, Finance, Transport, etc.	The laws in force are disparate	Inadequate compilation of laws by the relevant agencies. The laws are not sufficiently publicized.	First semester of 2011	Number of recorded visits to the website	To be determined
5e	Creating legal standardization and metrology	Revisiting the law on metrology and strengthening the role of the CNN .	Ministry in charge of Industry and of the other institutions in CNN.	Inadequate standardization system compared to technological and scientific advances.	Lack of capacity and resources for the functioning of CNN	2011-13	Number of recorded visits to the website	To be determined

1.4 RECOMMENDATIONS ON PERFORMANCE OF SECTORS UPSTREAM

1.4.1 Telecommunications and information technology

Prop. No.	Subject	Proposed measure	Agency responsible for implementation	Technical obstacles	Institutional obstacles	Time-frame for implementa tion	Expected outcome/ Intermediate performance indicator	Potential sources of financing
1	Legal and regulatory framework	Modernization and harmonization of the legal and regulatory framework for the ICT sector and the "information society"	MINPTT	Lack of technical capacity within MINPTT, outdated legal framework not adapted to the requirements of the information society	Exclusivity given to the traditional operator (supposedly responsible for the reference network and providing access and interconnection for all operators) imposes heavy constraints on the sector	2010-2012	Adoption of a legal and regulatory framework consistent with international best practice	To be identified
2	Absence of a unified and centralized strategy to provide a national "backbone" in the context of PPPs and under a regime of open access to networks	Approval of a clear and unified national strategy for the introduction of a high-speed infrastructure under the PPP framework and a regime of open access to networks	MINPTT, COPIREP, and ARPTC	Lack of technical capacity within the MINPTT, OCPT and absence of dialogue among the main public and private actors regarding prioritization and planning of investment in infrastructure	Lack of uniformity in programming investment and absence of a unified policy to accelerate the introduction of a high speed infrastructure. Failure to take into account projects under way (including SAPMP, RCIP and CAB)	2010-2012	Preparation and approval of a national strategy for PPPs, open access and a detailed plan for the introduction of an integrated high-speed fibre optic fibre network in the DRC	To be identified
3	Reorganization of the OCPT		MINPTT, Ministry of State-owned Enterprises, and COPIREP	Absence of a clearly defined reorganization strategy	Lack of genuine public and political will for reform because of predictable social impacts	2012	Preparation, approval and implementation of a stragegy for the reorganization of the OCPT	To be identified

Prop. No.	Subject	Proposed measure	Agency responsible for implementation	Technical obstacles	Institutional obstacles	Time-frame for implementa tion	Expected outcome/ Intermediate performance indicator	Potential sources of financing
4	Special fiscal regime for the ICT sector	Clarification and stabilization of the appropriate and coherent fiscal regime specifically for the ICT sector and consistent with international best practice	MINF and MINPTT	Lack of uniformity, complexity, difficulty and absence of transparency and predictability for a fiscal regime specific to ICT. Numerous actors and different rationales involved in the fiscal regime specific to ICT (MINF, ARPTC, DGRAD)	The telecommunications sector is seen as a milch cow. In 2008, it was estimated that the sector contributed over 36% of the country's fiscal revenue	2010-2012	Initiation of public consultations and a debate involving all stakeholders in order to define and introduce an efficient, fair and transparent fiscal regime	To be identified

1.4.2 Transport

Prop. No.	Proposed measure	Responsible agency	Level of priority	Time-frame for implementation	Expected outcome	Intermediate performance indicator	Potential sources of financing
1	Implementation of the strategy. Reorganization adopted by the Government in December 2009 in the case of ONATRA, RVA, RVM and SNCC	MINT, Ministry of, State-owned Enterprises, Public Works, Planning, and MINF	1	2010-2015	Better service, lower costs, fewer demands on the State's resources	Immediate implementation of the recovery plan for the SNCC, changing stabilization contracts into more long-term, public-private partnerships, introduction of the terms for the necessary redundancy schemes, transfer of commercial activities to private operators and adoption of a plan for the transfer of social services outside the scope of State-owned enterprises	To be identified
2	Implementation of a governance plan within State-owned companies in the transport sector	MINT, Ministry of, State-owned Enterprises, Public Works, Planning, and MINF	1	2010-2012	Better management and more effective combat against corruption	Governance plan focusing on the operation and cost of governing boards of State-owned enterprises, the system for awarding contracts and fiduciary management, the rules of ethics applicable to all personnel and the financing of trade unions by enterprises	To be identified To be identified
3	Adoption of a new Civil Aviation Code and the creation of an independent civil aviation agency	MINT	1	2010-2011	Improved air safety and security	Reform of the National Civil Aviation Agency, training of personnel, putting budgetary resources on a permanent basis	To be identified
4	Recertification of airlines and air crew and introduction of a minimum capital obligation of US$5 million for airlines		1	2010-2011	Improved air safety and security	Elimination of high-risk airlines and consolidation of the air transport industry with a view to making it more viable in the long term	To be identified
5	Support for the Minimum Partnership Programme for Transition and Recovery	MINT and Ministry of Public Works	2	2010-2012	More coherent plans for investment in transport infrastructure	Updating of 2004 documents in the light of recent projects	To be identified

Prop. No.	Proposed measure	Responsible agency	Level of priority	Time-frame for implementation	Expected outcome	Intermediate performance indicator	Potential sources of financing
6	Introduction of viable structures for maintaining the infrastructure	MINT and Miinistry of Public Works	2	2010-2013	Making long-term infrastructure improvements	Reform of the ODR, the RVF and RVM in accordance with the recommendations of the PMURR and the strategy note on reform of the transport sector, adopted by the Government in December 2009. Adequate functioning of FONER for successful financing of road-upkeep work.	To be identified
7	Introduction of a legal framework for competition in river transport	MINT	2	2010-2015	Improved business climate	Establishment of a monitoring committee, prior study, recruitment of experts	To be identified
8	Implementation of the Pointe Noire-Kinshasa corridor	MINT	2	2012-2020	Lower import costs	Feasibility studies, financing plans and customs transit agreement between the two Congos	To be identified
9	Preparation of a plan for the repair and maintenance of rural roads in the East of the DRC	MINT and, provincial authorities	2	2015-2020	Ending the isolation of agricultural production, particularly tea and coffee	Establishment of appropriate administrative structures and dialogue with investors	To be identified

1.4.3 **Energy**

Prop. No.	Subject	Proposed measure	Agency responsible for implementation	Technical obstacles	Institutional obstacles	Time-frame	Expected outcome/ Intermediate performance indicator	Potential sources of financing
1	Reform of the SNEL							
1a	Performance of the SNEL	Signature of a 5-year management contract with a private operator selected on the basis of its performance	COPIREP and Ministry of Energy	Attracting a competent private investor attracted by performance bonuses in the long term	Commitment by the Government, despite the underlying interest for the SNEL and the sector as a whole	2010-11	Management contract signed	World Bank financing within the context of projects being implemented
1b	Legal framework of the SNEL	Conversion of the SNEL into a commercial enterprise with limited liquidity, new articles of incorporation	COPIREP	Availability of information and the monetary value of the enterprise in order to draw up SNEL's accounts	Lack of accountancy expertise and management at the SNEL	2010-11	Total conversion of the SNEL and new articles of incorporation approved	World Bank financing within the context of projects being implemented
1c	Reorganization of the SNEL	Detailed strategy for the reorganization of the SNEL, preparation for the period following the management contract	Ministry of Energy and COPIREP		Commitment by the Government, despite the underlying interest for the SNEL and the sector as a whole	2011-2013	Strategy for reorganization of the SNEL approved	To be identified
2	Strategy for the electricity sector							
2a	General energy strategy	Energy code	Minister of Energy and Cabinet meeting	,	Coordination of the relevant agencies – Ministries of Mines, Hydrocarbons, Rural Development, Environment)	2011-2012	Code adopted	GTZ
2b	General electricity strategy	Adopting an electricity strategy and a plan of action	Cabinet Meeting	Limitation of State subsidies and rates applied according to consumers' income	Coordination of relevant agencies (energy sector, private participation, rural development and decentralization)	2011	Electric strategy adopted ; plan of action adopted.	Technical Assistance (GTZ)

Prop. No.	Subject	Proposed measure	Agency responsible for implementation	Technical obstacles	Institutional obstacles	Time-frame	Expected outcome/ Intermediate performance indicator	Potential sources of financing
2c	Inga development strategy	Selection of the least costly option for developing Inga, defnition of the appropriate institutional structure and options for financing the investment	Council of Ministers	Inga 3 vs. Grand Inga debate	Coordination of agencies and international partners	2011-	Inga development strategy defined and adopted	Technical Assistance (World Bank and AfDB)
3	Legal structure for the electricity sector	Adoption of the electricity law	Parliament	Plan for increased access to electricity, participation and investment by the private sector if possible competitively	Consultation and coordination with shareholders in accordance with the rules	2011	Law approved and ratified	To be identified
4	Regulatory structure for the electricity sector							
4a	Access to electricity	Creation of an electricity agency	Council of Ministers	Mobilization of funds and promotion of PPPs on the basis of past positive experience	Attractive bonuses and capacity-building for an efficient agency	2011-2013	Electricity agency created	WB, AfDB, USAID, PPIAF
4b	Electricity service regulations	Establishment of a structure for local regulation of electricity	Council of Ministers	Measures/data available for regulating the quality of services and pricing	Gradual transfer of regulation by contract (SNEL management) to regulation by agency (attractive and independent bonuses)	2011-2013	Electricity regulatory agency created	WB, USAID

1.5 RECOMMENDATIONS ON PERFORMANCE OF SECTORS DOWNSTREAM

1.5.1 Mining

Prop. No.	Subject	Proposed measure	Agency responsible for implementation	Technical obstacles	Institutional obstacles	Time-frame	Expected outcome/ Intermediate performance indicator	Potential sources of financing
1	Implementation of the existing legal framework	Application of the Mining Code to State-owned enterprises in the sector	Ministry of Mining	Technical and logistic capacity of the authorities		2010-2011	Enhanced competitive environment in the sector	WB and DFID financing under preparation
2	Reform of State-owned enterprises	Adoption and implementation of a plan for the reorganization of Gécamines	Ministries of State-owned Enterprises, Mining, Planning, and MINF		Consensus and commitment on the part of the Government	2010-2014	Enhanced performance of the State-owned sector, increased revenue for the State	To be identified
3	Investment stability	Completion of the process of reviewing contracts	Ministry of Mining			2010	Enhanced investment climate	To be identified
4	Redistribution of the revenue generated by the sector	Clarification of the division of provincial/ national competence	Ministry of Mining, MINF, Prime Minister's Office, and Parliament	Harmonization of the provisions in the Mining Code with other legal provisions (Constitution, etc.)		2010-2011	Enhanced investment climate, enhanced social climate	To be identified
5	Transparency and good governance	Implementation of the EITI	Ministries of Mining, and Planning, and MINF	Implementation of financing for validation of the EITI		2010	Enhanced transparency in the mining sector	GTW, Belgian Cooperation EITI Multi-Donor Trust Fund
6	Building sectoral capacity	Preparation of a development programme for the work force	Ministries of Mining, Education, and Planning		Coordination with existing institutes and universities	2010-2020	Better mining competence for operations and their monitoring	WB and DFID financing under preparation

Prop. No.	**Subject**	**Proposed measure**	**Agency responsible for implementation**	**Technical obstacles**	**Institutional obstacles**	**Time-frame**	**Expected outcome/ Intermediate performance indicator**	**Potential sources of financing**
7	Small-scale mining and informal sector	Review of the legal and institutional framework for small-scale mining activities	Ministry of Mining			2010-2015	Better working conditions for miners on a small scale	WB and DFID financing under preparation
8	Environmental and social impact	Initiation of an environmental and social strategic study	Ministries of Mining, and the Environment	Operational structure and interministerial coordination		2010-2011	Better institutional follow-up of environmental and social impacts	WB and DFID financing under preparation

1.5.2 **Agriculture**

Prop. No.	Subject	Proposed measure	Responsible agency	Time-frame for implementation	Expected outcome/Intermediate performance indicator	Potential sources of financing
1	Land tenure	Preparation and implmentation of a new policy of agricultural concessions, as prescribed in the Agricultural Code, in order to ensure (i) observance of customary rights; (ii) fair compensation (where applicable) and/or equitable participation of local populations in the profits generated by the award and exploitation of these concessions; and (iii) efficient social and environmental management of the impacts of exploitation of these concessions	MAEP, Ministries of Land Affairs , and Environment	2010-2011	Security of land tenure for rural populations and concession holders and effective and efficient utilization of land concessions	To be identified
2	Reduction of obstacles to agricultural exports	In-depth reviw of current export/import procedures for agricultural products with the objective of reducing costs and delays, including: (i) identification of the services really needed for effective control of export/imports of agricultural products; (ii) who should be responsible and what should be their reasonable cost (and also corresponding charges); and (iii) on this basis, streamlining/harmonization/cleaning up of the texts and formalities regarding import and export of agricultural products	MAEP, MINF and MINEC	2010-2011	Enhanced transparency, reduced costs and delays and consequently enhanced competitiveness of agricultural exports	To be identified
3	Development of access to improved/ high-yielding plant material (seedlings, seeds) and animal material	Adoption of the law regulating the national seed sector and implementation of the PNS, including (i) definition of a (possible) short- and medium-term subsidization strategy, propagation/distribution of this material to family-owned farms; and (ii) creation of PPPs for the propagation and distribution of selected seedlings and perennial crops	MAEP, Ministry of Scientific Research	2010 and 2010-2020	Adoption of the law regulating the national seed sector and implementation of the PNS, including (i) definition of a possible short- and medium-term subsidization strategy, propagation/distribution of this material to family-owned farms; and (ii) creation of PPPs for the propagation and distribution of selected seedlings and perennial crops	To be identified

Prop. No.	Subject	Proposed measure	Responsible agency	Time-frame for implementation	Expected outcome/Intermediate performance indicator	Potential sources of financing
4	Putting the agricultural development policy into operation	Participatory preparation (producers' associations, private sector, local communities) and adoption of (i) medium-term operational agricultural development programmes for at least 6 provinces; and (ii) medium-term operational programmes for the development of 6 priority subsectors (cassava, maize, rice, coffee, tea, rubber and/or oil palms)	MAEP, MDR, provincial Governments, private sector and the community sector	2010-2011	The policy is put into operation and adopted at two levels: provincial/local and subsectors	To be identified
5	Renewal of the agronomic research system	In-depth institutional review of INERA, including: (i) analysis of the Institute's governing bodies; (ii) evaluation of the personnel and preparation of a plan for reorganization/management of its human resources; (iii) financial audit and preparation of a plan for financial restructuring; and (iv) updating of the master plan for research "Master plan for agricultural research"	MAEP, Ministry of Scientific Research	2010 and 2010-2020	Generation of a flow of technology adapted to the constraints of Congolese agriculture and sustained growth in agricultural output and competitiveness	To be identified
6	Reorganization and decentralization of institutions responsible for managing the sector	Finalization and implementation of the plans for the reorganization of the MAEP and the MDR and effective introduction of CARGs in all the provinces	MAEP, MDR	2010 and 2011	Rationalization of the resources of the MAEP and the MDR and enhanced efficiency of their action and participatory management (local communities, private sector, producers' associations) in developing the sector	To be identified
7	Capacity building in international accreditation and foolproof product certification	Development and implementation of a plan to enable international accreditations to the DRC. In addition to capacity-building, sensitize, publicize, and implement standards for products from the DRC.	OCC, Ministries of Trade and MAE	2011-13	International accreditation of a DRC organization	FAO

1.5.3 Forest sector

Prop. No.	Proposed measure	Responsible agency	Technical obstacles	Institutional obstacles	Time-frame	Expected outcome/ Performance indicator
Subject	**Implementation of the law in order to improve the investment climate for the felling and processing of timber**					
1a	Adoption of the decrees and other legal texts needed to implement the 2002 Forest Law	MECNT	Draft legal texts	Coordination of various MECNT departments	2011	Decrees and other texts adopted,all the laws and decrees compiled in a volume and published in an official journal
1b	Completion of the legal analysis of forest concessions, including inspection missions and communication to the public of their findings	MECNT		Ending of concessions politically sensitive because of job losses	2010	Publication of an official list of lawfully managed concessions, including those recommended for non-conversion in the legal analysis
1c	Creation and introduction of an information system to detect movement of timber and to monitor forest concessions	MECNT DGF	Installation of hi-tech computers and the GIS system	Training and employment of MECNT personnel	2010-2012	SGS/Helvètes contract signed (completed), WRI SyGIS contract signed (planned for February 2010); active utilization of the system implemented to monitor the legality of logging and taxes
1d	Reinforcement of MECNT's provincial and regional offices in 3 experimental provinces (Bandundu, Equateur and Orientale) where the majority of logging occurs	MECNT DGF	Reinstallation of the MECNT infrastructure in the provincial capitals and regional cities	Redeployment of personnel based in Kinshasa	2010-2015	The taxes and charges collected by the DGRAD as a % of those invoiced by the MECNT, km. of illegal logging roads in the 3 experimental provinces, number of logging offences recorded by the DGF and by independent observers in the experimental provinces
1e	Adoption and implementation of a plan for participatory management of forests in order to reduce land use and disputes among stakeholders	MECNT DEP in cooperation with other sectoral ministries	Study of land feasibility (including mapping)	Consultation by stakeholders with several small groups of people in rural areas	2010-2015	Areas covered by participatory forest management plans implemented in the 3 experimental provinces
1f	Improved management of protected areas	ICCN	PA participatory management plan project	Consultation by stakeholders with several small groups of people in rural areas	2010-2015	Stabilization of the numbers of key species in protected areas

Prop. No.	Proposed measure	Responsible agency	Technical obstacles	Institutional obstacles	Time-frame	Expected outcome/ Performance indicator
Subject	Preparing the REDD regime					
2a	Creating the institutions required for the REDD regime (national committee, committee of ministers)	MECNT - National REDD Coordination		Agreement of the other sectors concerned by the success of this regime: agriculture, energy, and mining.	2010	Number of meetings of REDD national institutions per year
2b	Creating a comprehensive national multisectoral strategy to lessen deforestation and degradation and increase stocks of carbon	MECNT coordination and National REDD committee	Increase knowledge of the causes of deforestation and policies that can combat it	Ensure collaboration and multisectoral consultation with stakeholders at the local and national levels	2010-2012	REDD strategy prepared and endorsed by all stakeholders, investment for its implementation identified
2c	Implementation of a follow-up and monitoring system (MRV) for changes in forests and associated emission of greenhouse gases	MECNT - DIAF	Definition of the most appropriate technology (satellite imaging and verification on-the-ground) for controlling such a vast territory	Coordination with the various departments of the MECNT, with the provincial branches and with organizations in civil society	2010-2015	MRV system nation-wide and operational giving regular results in line with international standards
2d	Launching of experimental REDD projects	MECNT - DSE	Implementation of projects using internationally recognized methodology (preparation of reference scenarios, monitoring systems)	Elaboration of a transparent and competitive process for the selection of experimental projects	2010-2015	Number of experimental projects in operation

Chapter 2 Trade Performance and Policy in the DRC

2.1 FOREIGN TRADE, A VECTOR FOR ECONOMIC AND SOCIAL DEVELOPMENT

2.1.1 Foreign trade, growth and development

2.1 Throughout the world and over the ages, opening up to international trade has been closely related to economic growth. Even though the latter is the result of a wide variety of influences about which little is known - see in this connection the report on growth in the world (Commission on Growth and Development 2007) - recent studies have shown that episodes of trade liberalization are usually followed by marked acceleration of growth. Wacziarg and Welch (2009), for example, show that, following trade reform, growth on average exceeds 1.5 per cent of the previous figure. The rate of investment in particular reacts to trade liberalization, with growth ranging from 1.5 to 2.5 per cent.

2.2 The increased growth generated by trade liberalization is the result of a number of factors. First of all, lower customs tariffs encourage the use of imported inputs (capital goods and intermediate goods). In an emerging economy, imported inputs often provide technology and quality that cannot be found on the domestic market. At the enterprise level, access to high-quality inputs is consonant with higher productivity of production factors (capital, labour, skills), especially if the enterprise has the capacity (skills) needed to make good use of the technology imported. If this is the case, the existing labour and machinery will produce more efficiently when combined with imported inputs. This increased efficiency will allow higher wages to be paid and a better return on capital, generating an increase in purchasing power that will filter through to the rest of the economy.

2.3 Secondly, lower customs tariffs subject domestic enterprises to keener competition. In the short term, opening up to competition is painful and raises concerns. Even so, in the long term, it provides strong incentives for efficient management and for modernizing production capacity. It enables wage demands to be attenuated when they are not justified by an increase in output and, above all, it squeezes profit margins when these reflect a dominant position. This is particularly important in LDCs, where small markets result in numerous monopolies. Monopolies are not only costly for consumers, but also have an impact on well-being for the national economy as a whole because enterprises in a dominant position restrict production in order to keep prices high. Opening up to international competition does away with dominant positions, and consequently restores optimum pricing, while at the same time expanding the supply of goods available.

2.4 Lastly, trade liberalization reforms are often accompanied by more wide-ranging reforms, whether microeconomic - for example, concerning the operation of the customs authority - or macroeconomic. Although it is often difficult to distinguish the particular impact of such and such an element in a series of reforms, the overall effect stimulates growth. Moreover, the various elements relating to trade facilitation, governance, trade policy, and macroeconomic management are often complementary so that their impact as a whole exceeds the sum of the effects of each component.

2.5 Opening up trade is not generally a factor of economic instability, at least as far as manufactures are concerned. The recent financial crisis certainly showed that trade in goods reacts strongly to a downturn in the situation. Nevertheless, the most recent studies suggest that the sharp fall in exports is linked to the practices of the banks rather than to the intrinsic volatility of international trade relations. In fact, during previous financial crises, it was noted that businesses borrowing normally from banks that were themselves in difficulty (for purely domestic reasons independent of international trade) were obliged to decrease their exports more than others (Amity and Weinstein 2009). This thesis therefore suggests that domestic factors relating to the vulnerability of banks have been the origin of the sharp fall in exports during economic crises.

2.6 As regards commodities, it is true that their prices amplify the cyclical variations in the economic situation. It is thus possible that exports of commodities, in themselves, are a factor of temporary instability. Nevertheless, temporary instability caused by fluctuations in commodity prices only rarely becomes unstable growth, in statistical terms "accounting" for only 3 to 4 per cent (Raddatz 2007).

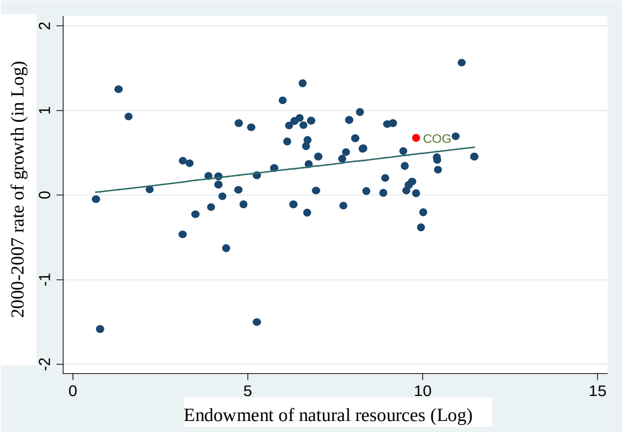
2.1.2 Natural resources, a curse?

2.7 Abondance of natural resources is a condition that can be mobilized to support development, if accompanied by appropriate political and institutional frameworks. It could be a source of complication for macroeconomic policy, known as the ‘Dutch Disease’, bringing a host of potential problems that, while serious, are not irresolvable. The main problem that arises in resource rich countries is that redistribution of wealth falls entirely into the hands of Government, which poses numerous governance problems, whereas agriculture and manufacturing revenues are generated directly by households. Given the weak capacity of the state in DRC, diversification of economic activities is thus necessary for shared growth.

2.8 Dependence on natural resources, measured by their share of exports or GDP, bears a negative correlation to growth. This observation was revealed in a series of authoritative articles (Sachs and Warner 1997, 2001) and inspired the term "the natural resource curse". This is a paradox: natural resources should be the source of revenue that helps to combat poverty and investment in infrastructure that promotes growth. Many explanations have been put forward for this paradox. For example, it has been shown that dependence on natural resources in various countries is related to low levels of governance, marked disparities in income and high levels of violence. All these syndromes in themselves hamper growth. This observation is of crucial importance for countries such as the DRC and, if true, implies that policies to diversify exports should be the foremost priorities.

2.9 It has recently been shown by Brunnschweiler and Bulte (2008), however, that an abundance of natural resources is not negatively correlated to growth. The distinction between dependence and wealth is crucial. As has been seen, dependence is measured by the share of commodity exports in total exports. Wealth, on the other hand, has only recently been measured in two World Bank reports (see World Bank, Lederman and Maloney, 2007) by the present value of mining and other resources. The use of dependence as an explanatory variable for growth raises the following problem: let us assume that a country moves from a rapid phase of growth underpinned by diversification of exports to a phase of institutional crisis. During the crisis, mining usually withstands upheavals better than other activities because it is confined to a particular area. Because other activities are declining, the share of commodities (mining products) in exports automatically increases. As the crisis sees growth decline, the increase in mining's share of exports during the crisis appears to cause a fall in growth. It is, however, the institutional crisis which simultaneously reduces growth and increases the export share of commodities. In other words, the negative correlation between growth and the share of natural resources in exports is the result of a forgotten factor (the institutional crises) and is simply a statistical illusion. The use of resources in the subsoil as an explanatory variable for growth does away with this illusion and belies the "curse of natural resources", as can be seen from Figure 1.

Figure 1: Average growth 2000-2006 and resources in the subsoil



Note: The horizontal axis measures the current value of the volume of natural resources present in the subsoil (per worker) in 2000, and the vertical axis shows growth between 2000 and 2007, both in terms of logarithms. A Barro regression of average growth over the period 2000-2007 on initial revenue, the original level of education, the rate of investment and the volume of natural resources present in the subsoil (by worker) gives a positive and significant coefficient of 5 per cent of the latter.

Source: World Bank, WDI, UNCTAD, calculations by the mission.

2.10 An abundance of natural resources is not, in itself, therefore, a factor inhibiting growth. It is nevertheless true that their exploitation raises specific problems. In economic terms, the exploitation of natural resources for export creates inflationary tension (because of the demand for intermediate goods and skilled labour). It also exerts upward pressure on the national currency. The combination of inflation because of costs and over-valuation of the currency is highly detrimental to exporters of manufactures and can, in extreme cases, lead to the country's deindustrialization. This syndrome, known as "the Dutch disease" (with reference to the first case noted in the Netherlands when natural gas deposits began to be exploited) has been observed on numerous occasions. It can, however, be offset by appropriate labour and foreign exchange policies.

2.11 In addition, in the past the exploitation of natural resources often occasioned unlawful payments when concessions were awarded. This is particularly opaque when there is a war on, as was the case in the DRC between 1998 and 2002, and in some cases may even help to finance the war. Even when cases are not so extreme, the exploitation of mining resources is usually of little benefit to the local population. Jobs are scarce, the mining industry is more capital-intensive, and working conditions are often deplorable, frequently causing political tension and the repression of the local population. This syndrome can be tackled through initiatives such as the EITI and, more broadly, through efforts to enhance governance and ensure equitable benefit-sharing.

2.12 In environmental terms, extractive industries have only very recently - and incompletely - started to integrate environmental concerns into their strategies and practices. Confronted with States with limited control and monitoring capabilities, multinationals in the sector have largely ignored sustainable development issues and even the well-being of the local population. In addition, the exploitation of mining resources is, of course, subject to depletion. It is thus important to devise new ways of exploiting natural resources in parallel with diversification strategies. Trade in carbon credits, described in Chapter 5 of this report, is the most striking example.

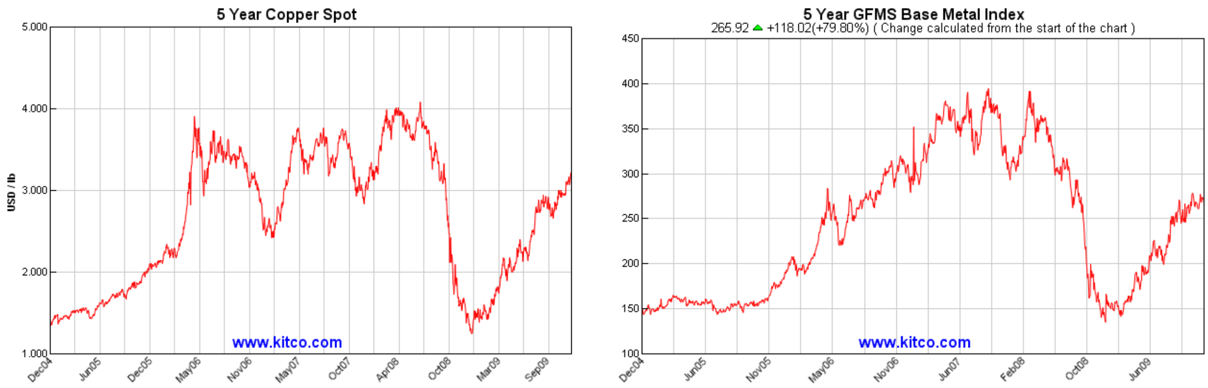
2.1.3 **The macroeconomic environment in the DRC**

Recent developments

2.13 The Congolese economy has recently been subject to considerable pressures. Commodity prices temporarily collapsed during the last quarter of 2008. Some prices - copper, for example - rose almost as quickly as they had fallen, as can be seen from Figure 2.

Figure 2: Recent trends in base metal prices

(a) Spot price for copper, 2004-2009 (b) GFMS base metal index price, 2004-2009



Source: Kitco metals

Others, such as cobalt, are still below their 2006 levels (i.e. before the speculative rise in prices). The price of diamonds is less volatile: in May 2009, the IDEX index price for polished diamonds was 108.7, i.e. 8 per cent above its 2004 level, but 12 per cent below its May 2008 level (123).

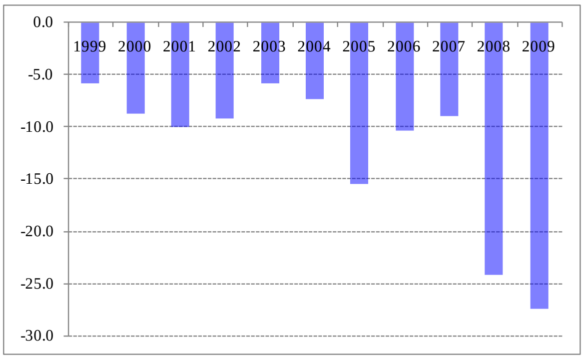
2.14 In addition, disturbances in the Eastern provinces led the Government to increase spending on national defence, financing this through a loan from the Central Bank. This unrest ended in March 2009 following an agreement between the Government and the rebels providing for their integration into the Congolese army, but this remains a challenge both in terms of security and the budget. This tension also exacerbated the market's fears concerning the stability of the Congolese franc, helping to cause its depreciation.

2.15 The authorities' response in terms of macroeconomic policy has been ambiguous. Despite the increase in security-related spending and the decrease in fiscal revenue from the mining sector (which was US$50 million a month until November 2008, but fell to US$6 million in December, only to rise to US$22.9 million in February 2009), financial policy has remained prudent. The deficit is kept to 1 per cent of GDP. Monetary policy signals, however, are not very clear. The BCC raised its guideline rate to 40 per cent, 65 per cent and then 70 per cent in October 2009, and increased its reserve requirement ratio from 5 to 7 per cent, but was unable to offset the Government's injections of liquidity, which led to a rapid increase in the supply of money.

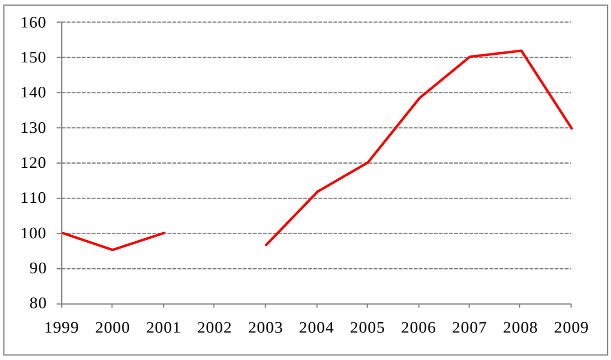
2.16 Recent macroeconomic performance reflects these pressures. Growth estimates for 2009 are 2.8 per cent, compared to 6 per cent for 2008 (which was already below the 10 per cent forecast). Inflation that was already high (between 10 and 20 per cent in 2007) rose in stages to 25 per cent in 2008, and then to a peak of 55 per cent in spring 2009, before falling below 40 per cent during the summer. The current account deficit reached 24 per cent of GDP in 2008 (Figure 3).

Figure 3: Current account and terms of trade, 2002-2008

(a) Current account as a percentage of GDP



(b) Terms of trade, basis 100 = 1999



Source: IMF.

2.17 Reserves fell from US$180 million at the end of 2007 to US$78 million in February 2009. After a critical period during which the DRC came close to an exchange crisis (the Congolese franc fell from CDF 680/US$1 on 6 January 2009 to CDF 850/US$1 on 7 January), emergency help from the International Monetary Fund and the World Bank allowed reserves to reach a less vulnerable level. The Congolese franc rapidly depreciated until reserves were stabilized, losing 35 per cent against the United States dollar in nominal terms. This depreciation corresponded to the inflation differential, the real exchange rate remaining stable over this period. Because of the large share of consumer goods in imports, the depreciation of the Congolese franc probably led to a substantial drop in urban households' living standards. The largely dollarized economy of the DRC suffered from the decrease in the inflow of foreign currency following the drop in exports, accompanied by a reduction in the external financing sources utilized by certain enterprises.

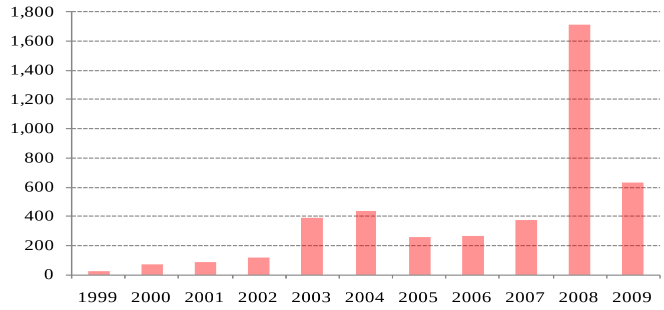
2.18 In addition, external supplier and intra-enterprise credits and the direct financing of certain enterprises by foreign banks tended to dry up because of the problems faced by these customary creditors (suppliers, parent firms, and large international banks) or perception of increased risk in the DRC.

2.19 The aggregate macroeconomic performance figures conceal considerable disparities among the regions. The impact of the fall in metal prices was, naturally, much more marked in the Katanga mining basin - whose activities are sometimes estimated to account for over 40 per cent of the national GDP - than in other provinces. It is estimated that several tens of thousands of jobs have been lost in the mining sector, where many artisanal and small-scale mines closed down at the beginning of 2009.

2.20 This rapid deterioration took place in a more general context of macroeconomic fragility, but with tangible prospects for a return to growth. Inflationary pressures have persisted since 2002 and the deterioration in the current account occurred after a long period during which it barely remained in balance while the terms of trade continued to improve. This is not very surprising in view of the various shortages affecting the Congolese economy, but nevertheless remains a factor of vulnerability. The current deterioration is likely to continue until 2011, when it is estimated that the current account deficit will attain 32 per cent of GDP.

2.21 FDI, which ranged from 3 to 6 per cent of GDP (US$200 to US$400 million, Figure 4) since the disturbances ended in 2007, took off in 2008 and reached 14.8 per cent of GDP (US$1.7 billion). In 2009, it fell to 5.8 per cent of GDP (US$628 million), but should return to around 7 per cent of GDP between 2010 and 2012 as a result of investment in mining.

Figure 4: Foreign direct investment in DRC, in US$ millions



Source: IMF

2.22 In addition to the immediate consequences of the international financial crisis, the Congolese economy remains highly dependent on external aid because of its debt. The DRC's external debt, estimated to be US$13.5 billion at the end of 2008, represents 102 per cent of its GDP, 166 per cent of exports, and 552 per cent of the State's fiscal revenue. It is expected that the present value of the debt/GDP ratio will reach a peak of close to 140 per cent in 2010, and then fall until 2019, even though to levels that are still not sustainable. Debt servicing also risks increasing from 5 per cent of exports in 2009 to close to 15 per cent in 2014, and then fall again between 2014 and 2019. These levels cannot be sustained without cancellation of its debt. In this regard, the DRC has just reached the completion point for the HIPC initiative in 2010.

The Congolese banking system

2.23 One of the features of the DRC's banking system is its relatively small size compared to the size of the country and its population, which constrains its capacity to contribute towards the financing of foreign trade. The number of bank accounts has shown a marked increase over the past two years but, with some 200,000 bank accounts for a population estimated at over 65 million, the figure is well below the average. There has also been a notable increase in the number of authorized banks, from six in 2005 to 19 in 2009, five of them authorized between 2005 and 2007 and three in 2008[1]. 17 authorized banks were operating in July 2009, and three were awaiting certification. With the exception of the BCDC, Citibank and Stanbic, and to a lesser extent ProCredit, none of them belong to an international banking group, and African banking groups only started to set up in the Congo in 2008 with the arrival of Ecobank, Access Bank and Bank of Africa. The other banks are owned by families with local economic interests or by foreign non-banking investors.

2.24 Bearing in mind the embryonic nature of the banking sector, the banks operating in the DRC are not very sophisticated and although they are currently feeling the impact of the global financial crisis, they were not directly affected by the international banking crisis and did not suffer losses as a result (toxic assets, absence of correspondent banks, etc.). The survey of all the banks operating in the DRC conducted by the Central Bank in December 2008 showed that their assets outside the country corresponded to demand deposits or to assets deposited in connection with letters of credit.

2.25 With regard to their activities, these consist of taking deposits and short-term financing operations. The majority of deposits are sight deposits (82%) and depots en devises (90%), mostly in

[1] Banque Commerciale du Congo (BCDC), Citibank, Raw Bank, Stanbic Bank, Banque Internationale pour l’Afrique au Congo (BIAC), Banque Internationale de Crédit (BIC) in 2005 ; Banque Congolaise (BC), Afriland Bank, Trust Merchant Bank, Procredit Bank et la Banque Privée du Congo from 2005 to 2007 ; Solidaire Internationale Bank, First International Bank, La Cruche, Mining Bank, and Invest Bank in 2007. Ecobank, Access Bank (bought Banque Privée du Congo), Advens Bank et Bank of Africa in 2008.

US dollars. Clients are mainly businesses (60% of total deposits), the personal category consisting in fact of those clients, craftsmen and traders not established as SARLs (limited liability corporations). The deposits mainly come from flows that correspond to the enterprises' working capital funds, particularly in the mining sector, where the slowdown or disappearance of enterprises explains the decline noted since October 2008. In the case of loans, because of the low level of global capitalization in the Congolese banking system, large-scale projects or important investment require resort to external financing. Congolese banks are therefore confined to financing day-to-day operations and export or import transactions. As a result, loans are mainly cash loans in the form of overdrafts or letters of credit to finance imports of goods for investment or household consumption.

Table 1: Selected performance data, Congolese banking system

	December 2007	December 2008	December 2009
Total balance sheet	1,225.31	1,664.47	1,700.9
Total deposits	837.3	1,142.9	1,022.07
Demand deposits	750.28	948.61	839.97
Foreign currency deposits			922.57
Deposits by entreprises			
Loans/deposits	47%	66%	78%
Total loans	397.04	759.08	798.33
Cash loans as a %			
Bad loans net			94.76
Doubtful debts rate	4.44%	2.77%	11.87%
Provisioning rate	50%	60%	89%
Prudential own funds	125.6	128.92	158.51
Solvency ratio	12	12	14

Note: All the figures, with the exception of percentages, are in US$ millions.

Source: BCC

2.26 Table 1 shows the limited scale of the Congolese banking system (US$1.6 billion in the total balance sheet for a GDP of US$11 billion). It also shows the apparent solvency of the system as a whole (an average of 11 per cent for a regulatory minimum of 10 per cent). The low level of bad loans and the limited provisioning rate for these could explain this apparent solvency. Nevertheless, in the absence of a detailed analysis of the banks' loan portfolios it is difficult to make any judgement on the actual quality of their portfolios, particularly as overdrafts are the principal means of assisting enterprises so any evaluation of the real risks is not easy. According to information obtained during the missions undertaken to prepare this report, on the one hand, some banks appear to be restructuring overdrafts in advance so as not to have to consider them as bad loans and, on the other, they do not categorize commitments according to the risks they represent.

2.27 Moreover, the difficulty of obtaining a loan is exacerbated by a legislative clause called the "third party payer" according to which a lender - often the State - may seize private funds subject to administrative authorization, in other words, without going through a prior judicial procedure. Bank accounts are thus potentially vulnerable to arbitrary seizure, making private operators and banks extremely prudent in their management of accounts and compelling use of alternative methods of saving.

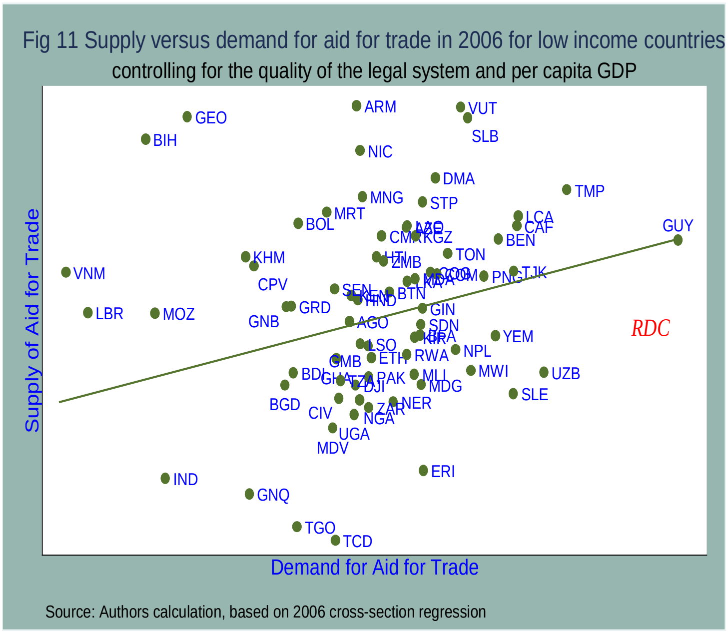
2.2 THE DRC'S TRADE PERFORMANCE

2.2.1 Aid for trade and trade performance

2.28 The DRC's trade performance is important in two respects. Firstly, it constitutes the factual basis for the trade facilitation and development strategy that is the subject of this report. Secondly, it determines the flows of aid for trade. Gamberoni and Newfarmer (2009) have determined a series of indicators of "demand for aid for trade", including five measurements of trade under-performance[2] and five measurements of insufficient capacity.[3] These indicators forecast flows of aid for trade accurately, as can be seen in Figure 5.

2.29 According to these indicators, the DRC is one of the countries where there is strong demand for and high levels of aid for trade. The paragraphs below highlight in more detail some selected aspects of the DRC's trade performance.

Figure 5: Supply and demand of aid for trade, 2006



Notes: The relationship depicted by the central circle is the partial correlation between flows of aid for trade (on the vertical axis) and the synthetic indicator of "demand for aid for trade" of Gamberoni and Newfarmer (on the horizontal axis), in a regression that includes Kaufman and Kraay's rule of law indicator as a control variable.

Source: Gamberoni and Newfarmer (2009).

2.2.2 Data

2.30 Improvements in data collection methods on the subject of international trade in DRC must be improved, notably by applying the system SYDONIA. The national data on foreign trade are fragmentary and not very reliable. The DRC has not sent its trade data to the United Nations statistical services since 1978, and this applies to all levels of aggregation. The only data available to

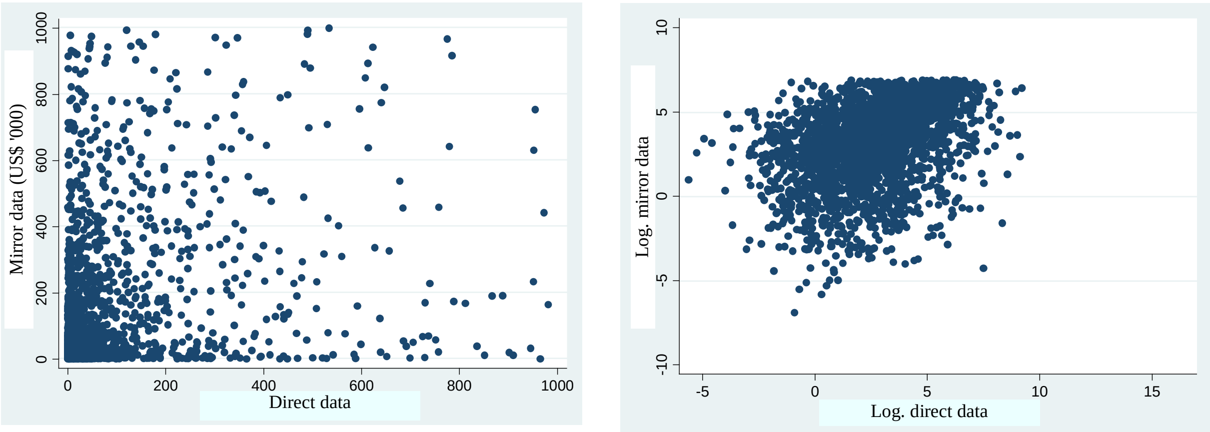
[2] These are a low growth rate for exports, on the one hand in global markets and on the other in markets to which the country already exports, together with strong geographical and sectoral concentration of exports.

[3] Poor infrastructure according to the Logistics Performance Index, malfunctioning customs service, inefficient trade policy institutions, and a disincentive to export because of high tariff peaks, together with a highly restrictive trade policy.

analysts are therefore the so-called "mirror" data, i.e. exports from countries of origin in the case of imports and imports into the country of destination for exports. DGDA did transmit direct data concerning a few partners for the purpose of preparing this report. It is a courageous act on the part of the authorities to make these data available because it lays the authors open to potential criticism.

Figure 6: Imports by the DRC: direct data and mirror data

(a) Value (US$ '000) (b) logarithms



Source: COMTRADE (mirror data), OFIDA (direct data), calculations made for the report.

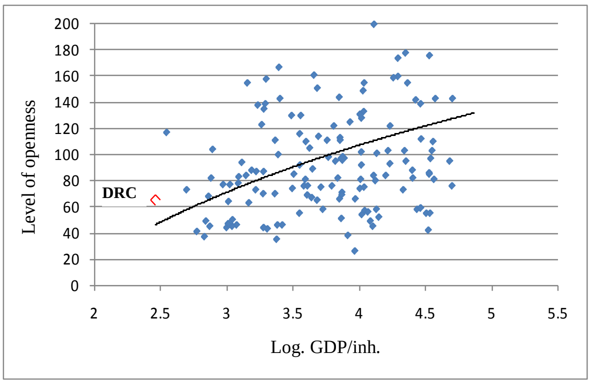
2.31 Figure 6, which compares these data to the mirror data, should not be interpreted as criticism, especially as these are imports, which means that the mirror data are export data. In countries worldwide, exports are less accurately recorded by the customs than imports because they rarely involve taxation. It is therefore quite possible that in this particular case the mirror data are just as imprecise as the direct data. Nevertheless, their lack of correlation suggests the need to make an effort to collect data concerning the DRC's trade.

2.2.3 Global openness

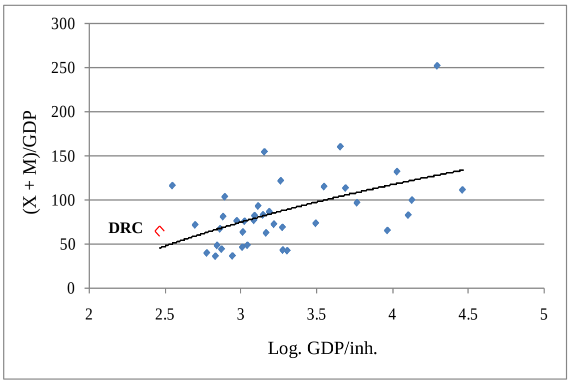
2.32 The DRC's level of openness is average for countries that are comparable in terms of income, as can be seen in Figure 7. This shows that, on average, a country's level of openness (measured by its foreign trade/GDP ratio) increases along with income. If we take into account this relationship, shown by upward curves, it can be seen that the DRC is slightly above the ratio "projected" by the curve.

Figure 7: Trade openness and revenue: DRC and comparable countries, 2008

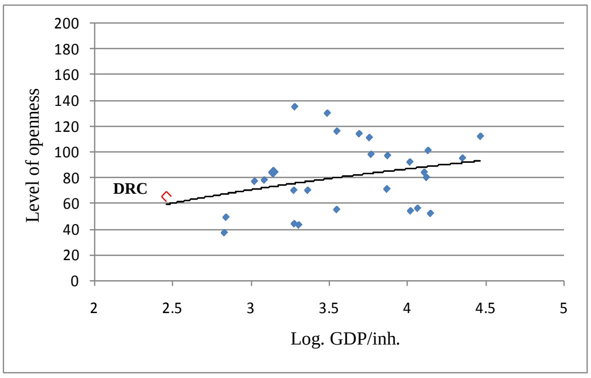
(a) Comparator: World



(b) Comparator: SSA



(c) Comparator: Exporters of commodities



Note: Income on the horizontal axis is measured by GDP/inh. in 2005 United States dollars at purchasing power parity; the level of openness on the vertical axis is measured by the sum of exports and imports compared to the GDP.

Source: WDI, calculations by the mission

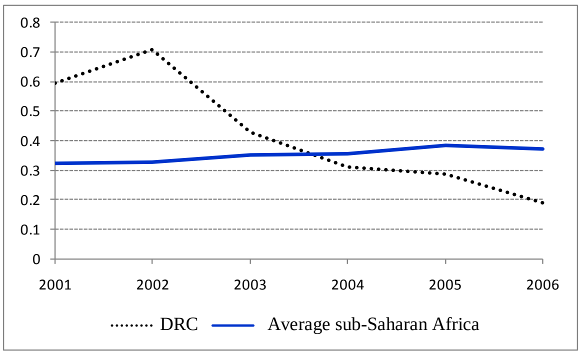
2.33 Table (c) in the figure, however, shows that the relative openness of the DRC compared to other countries in the world (Table (a) or the rest of the African continent (Table (b)) is largely attributable to the fact that the DRC exports mining products. These are less dependent than other products on the level of revenue because mining companies often finance their own export infrastructure, and countries exporting mining products are frequently more open than their level of revenue indicates. If one takes exporters of commodities as comparators (Table (c)), it will be seen that the DRC's openness is just within the average because it is almost on the curve.

2.2.4 Diversification and composition

2.34 The DRC's exports are not very diversified in sectoral terms, but they have become much less concentrated over the past five years, as can be seen in Figure 8. This shows the trend in the Herfindahl index of the concentration of exports in the case of the DRC (dotted curve) and a comparator group composed of sub-Saharan African countries.[4]

[4] The Herfindahl index measures the concentration of the sum of the squares of the shares of each export heading in the total. The higher it is, the greater the concentration (i.e. the less the country's exports are diversified). It is measured here at the HS4 level (around 1,000 export headings). The maximum value of the index corresponds to one.

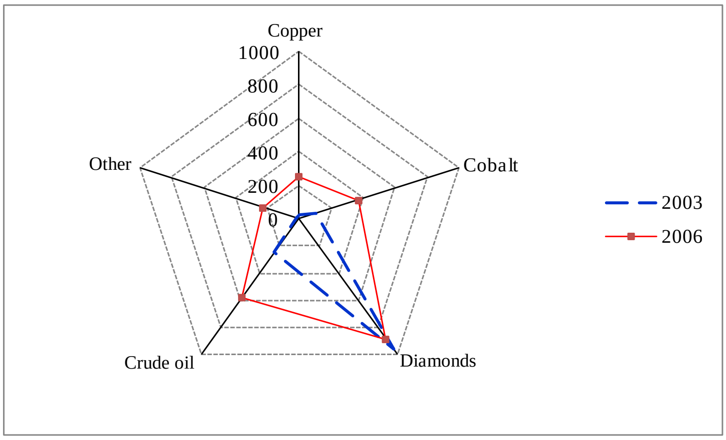
Figure 8: Concentration index for the DRC's exports



Source: COMTRADE (mirror data), calculations by the mission.

2.35 It should be noted that the concentration of Congolese exports measured in comparison with the exports indicated by the DRC's partners probably under-estimates the real concentration inasmuch as mining exports (which account for a major share of the DRC's exports) are measured more accurately than agricultural exports going through border posts on land along the Eastern border of the DRC. The sectoral composition has also changed, with the share of diamonds decreasing in the total, as can be seen from Figure 9.

Figure 9: Sectoral breakdown of Congolese exports

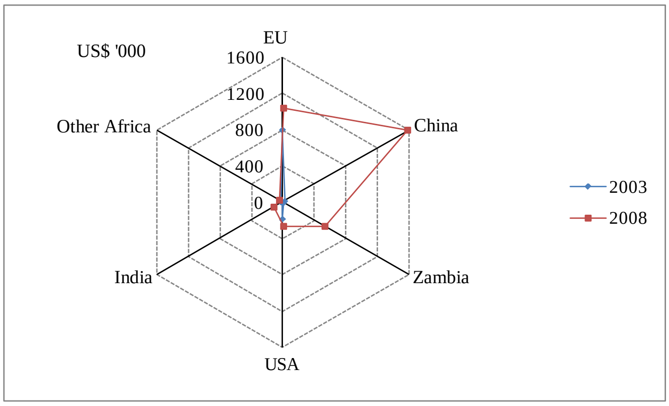


Source: COMTRADE (mirror data), calculations by the mission.

2.36 It can be seen that there is clear diversification, which corresponds to the decrease in the concentration index shown in Figure 8, diamonds playing a less important role in Congolese exports. This diversification is, however, confined to commodities, essentially copper, cobalt and oil, partly because of rising prices for these products on global markets. As explained later in this report, however, the volumes produced also showed a marked increase with the return to stability.

2.37 The geographical breakdown of Congolese exports has also shown important changes over the past five years, as can be seen from Figure 11. China now plays a leading role as an outlet for Congolese products, taking first place. This is hardly surprising when considering, for example, that 60 of the 75 mines operating in Katanga are owned by Chinese companies (see Chapter 5).

Figure 10: Geographical breakdown of Congolese exports, 2003 and 2008

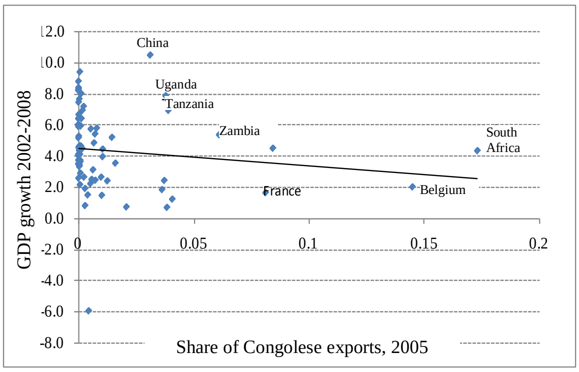


Source: COMTRADE (mirror data), calculations by the mission.

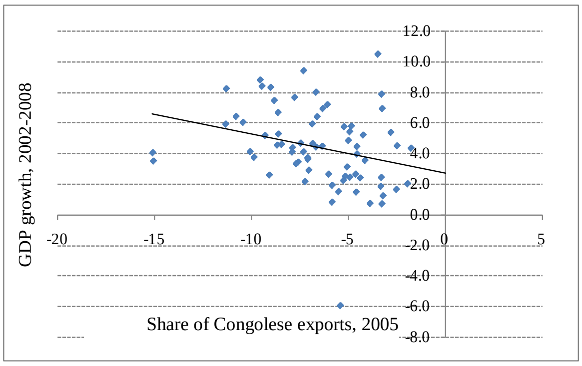
2.38 The geographical orientation is nonetheless not beneficial, as can be seen from Figure 10. For each country of destination for Congolese exports, the table measures the country's share of total exports on the horizontal axis. The vertical axis shows the growth of the country in question over a fixed period, in this case 2002-2008. If the straight line of least squares, which shows the overall orientation of the relation, goes up, the most important destinations are also the most dynamic in terms of growth. The orientation is then beneficial. If the straight line goes down, the most important destinations are the least dynamic in terms of growth. The orientation is then not beneficial.

Figure 11: Shares of Congolese exports 2005

(a) Shares as a fraction of the total



(b) Shares in logarithms



Note: The shares range from zero to one in Table (a). Thus, they are negative in Table (b), where they are shown in logarithms. The shares have been calculated for the median year over the period during which growth was calculated.

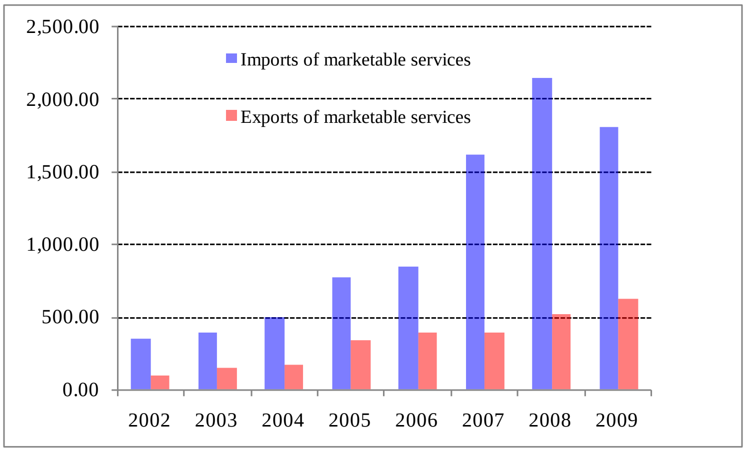
Source: COMTRADE (mirror data), calculations by the mission.

2.39 Figure 11 shows that, in 2005, the orientation was clearly not beneficial. Three important destinations for the DRC's exports that year - Belgium, France and South Africa - are countries with a low rate of growth. Table (b) in Figure 11 shows the same data, but with the shares in terms of logarithms in order to indicate more clearly the countries of destination that are less visible because they are close to the vertical axis in Table (a). It can be seen that the downward trend is not simply caused by the three major destinations mentioned above, but is a general downward trend.

2.40 As was seen in Figure 11, in 2008, China took the largest share of Congolese exports. This improves the geographical orientation of Congolese exports because China is a destination with strong growth. But one misplaced observation in Figure 11 does not suffice to reverse the overall orientation. It is thus important for the Congolese authorities to consider what policies would be likely to redirect the DRC's exports towards dynamic markets.

2.41 There was spectacular progress in trade in services in the DRC, with imports of marketable services rising from under US$500 million up to 2004 to over US$2 billion in 2008. Exports of marketable services also increased considerably, but not to the same extent (Figure 12).

Figure 12: The DRC's trade in marketable services, 2002-2008



Source: World Bank

2.42 The outlook for expansion of trade in services is good. For example, banking services in countries neighbouring the DRC are widely used by planters in the Eastern part of the country because of the shortcomings of the Congolese banking system, described above.

2.3 THE DRC'S TRADE POLICY

2.3.1 Institutional and legal framework

2.43 The DRC's trade policy involves a large number of Government agencies and the Ministry of Trade plays a key role in defining it. It is responsible for directing trade policy strategy in the broad sense, in other words, not only port taxation but also all measures potentially having an impact on imports and exports. The Ministry's responsibilities therefore extend to measures to protect trade (anti-dumping and safeguard clauses and anti-subsidization measures), rules of origin, and other trade policy measures. It is also responsible for administering border procedures, and plays a key role in defining the DRC's negotiating positions and in the conduct of international trade negotiations. The Ministry is also in charge of the creation of special economic areas (including free zones).

2.44 The Ministry of Finance also plays an important role in the DRC's trade policy, particularly as regards the definition and administration of customs duties. Authority for customs matters belongs to DGDA (Customs and Excise Office), which comes under the supervision of the Ministry of Finance. Its mandate includes monitoring imports and exports and collecting port taxation. DGDA has national and provincial offices and is also responsible for coordinating the decentralized aspects of port taxation. Lastly, DGDA collects all statistics concerning imports and their taxation. As was seen above, there are serious lacunae in the collection of trade statistics and the DRC has not submitted any data to COMTRADE since 1978.

2.45 Lastly, the Central Bank implements the exchange policy decided upon by the Government, allocates import and export licences, and oversees the financing of foreign trade by the banking sector.

2.46 A certain number of other bodies play a secondary but nonetheless important role in implementing trade policy, the result being a somewhat imprecise dividing line between their areas of competence. For example, it is OCC's responsibility to control imports and exports, in other words, to apply the measures adopted by the Government at loading and unloading ports and at border posts. In particular, it is in charge of controlling quality and verifying the origin of goods, as well as their conformity with national regulations (in the case of imports) and international regulations (for exports). In parallel, since 2006, BIVAC (Veritas Bureau) has been the authorized agency for preshipment inspection, mandatory for all transactions exceeding US$2,500. The other Government agencies involved in foreign trade in the DRC include the Directorate-General of Taxation and OGEFREM (Multimodal Freight Administration Office).

2.47 The State is also involved in foreign investment policy. One of the Government's objectives is gradually to create a climate that is attractive to foreign investors so as to take advantage of the country's vast natural potential. For this purpose, the Government has set up a "one-stop shop", the ANAPI.

2.48 A number of ongoing initiatives are aimed at improving DRC’s trade policy, including the revision of the trade ‘*loi particuliere’* and its articles of application, as well as capacity building initiatives to build analytical skills for trade analysis. These initiatives contribute to the implementation of larger priorities identified by the national authorities, notably (i) development of negotiation capacity, which requires development of expertise and participation of all actors in formulation of trade policy strategy, and (ii) diversification of commercial partnerships through better use of existing preferential trade regimes.

2.3.2 Multilateral aspects

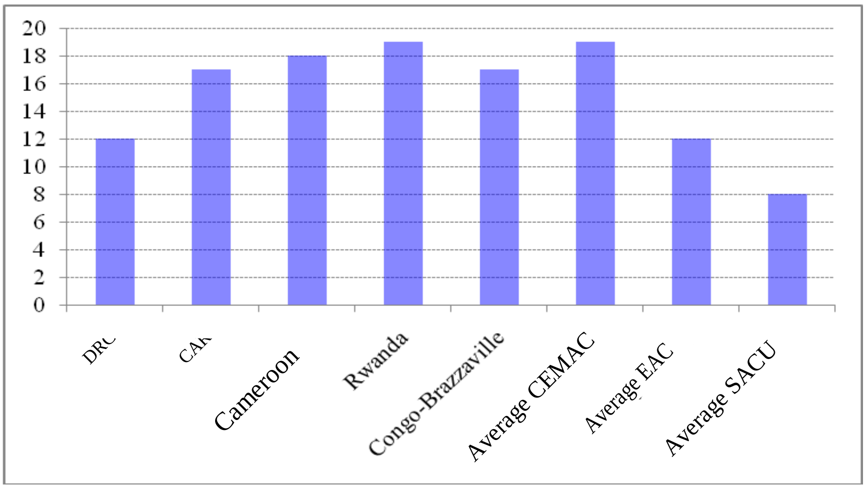
2.49 In theory, the DRC's trade regime is broadly consistent with its national obligations in the WTO as regards the type of customs duties, which have all been bound and are *ad valorem*. The DRC has been applying the WTO Customs Valuation Agreement since March 18, 2003 when Law no. 009/03 relating to customs valuation of goods imported under the WTO Agreement was passed, but its implementation is still being worked on. It is clear that certain customs officers have difficulty implementing this agreement. The difficulties are especially attributable to the establishment of databases. It must be noted that these officers rather need capacity building to increase their performance. The DRC adopted a new Government procurement code when achieving the completion point under the HIPC initiative in 2010. . Regarding the other aspects of harmonizing domestic trade policy with the WTO Agreements, considerable efforts will have to be made to build capacity in the institutions concerned. For example, the application of measures to protect trade (safeguard clauses, anti-dumping and countervailing duties) will have to be accompanied, *inter alia*, by development of analytical and research capabilities.

Import measures

2.50 The DRC liberalized its import regime in the early 1990s. All customs duties have been bound and the majority is *ad valorem*.

2.51 On average, customs duties in the DRC fell by 20 to 25 per cent in the 1980s (with a temporary maximum of 35 per cent in 1994). The average decrease was 12.9 per cent in 2008. This level is low in comparison with other similar countries, as can be seen from Figure 13.

Figure 13: Average tariff level in the DRC by international comparison



Source: UNCTAD TRAINS.

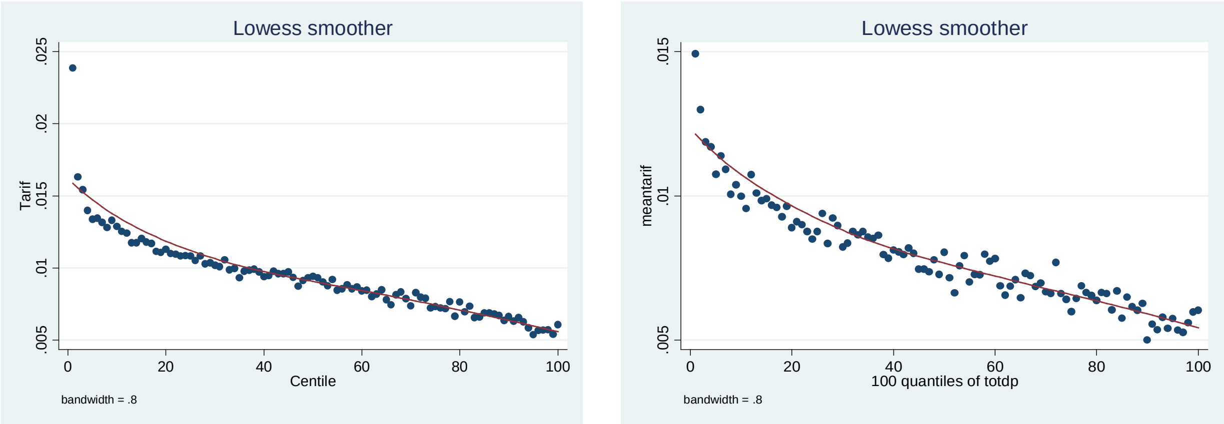
2.52 The current customs duty is in principle straightforward and not particularly restrictive. It comprises four rates: 0, 5, 10, and 20 per cent. The adoption of this tariff has enabled tariff peaks to be eliminated and has lowered levels of protection for a large number of imported goods. Agricultural inputs (fertilizer, etc.) are subject to a zero rate. The rate is 5 per cent for industrial machinery and capital goods in general, data processing equipment (computers, etc.), some food products (wheat and other grains, milk and industrial flour) and heating oil; other food products, pharmaceuticals, petroleum products, light machinery and spare parts are subject to 10 per cent; lastly, the rate for finished goods, products that compete directly with local production, and luxury goods is 20 per cent. The special feature of this structure is the low level of tariff escalation and the tariff is neutral between industry and agriculture.[5]

2.53 The tariff structure of customs duty is nonetheless regressive (that is to say, biased in favour of higher-income households). The average tariff paid by the poorest households (Figure 14) is over 15 per cent, whereas that paid by wealthier households is around 5 per cent. This can be explained by the high taxation on goods that play a major role in household spending by the poorer sections of the population. Farmers and net producers of agricultural products are relatively protected by the customs tariff structure. Table (b) in Figure 14 limits the analysis to urban households, for which the customs tariff can only be a tax. It confirms Table (a) showing the regressive structure of import taxation.

[5] Overall, low-income countries tend to tax agriculture whereas high-income countries protect it. The neutral tariff structure in the DRC does not obey this rule.

Figure 14: **Customs duties on consumer goods, by centile of income distribution**

(a) All households (b) Urban households only

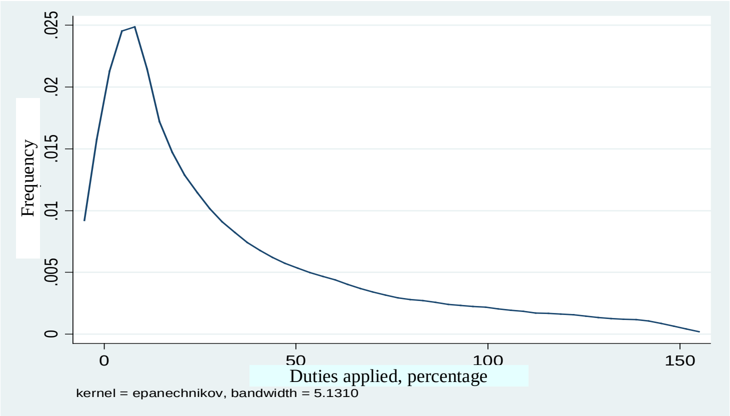


Notes: Each point in the figure represents a weighted average of the DRC's customs duty, in which each good is weighted by its share of average spending by households with a particular level of income. Here, the levels of income are centiles of income distribution, arranged in ascending order of income (the poorest centile to the left). There are thus 100 points. If the regression curve declines, the tariff is regressive (anti-poor), if it rises, it is progressive (pro-poor).

2.54 In addition, the apparent simplicity of the customs tariff masks complex port taxation made up of a myriad of micro-taxes, many of them levied by different authorities without any real coordination. Excise duties are levied at nine rates, ranging from 2 to 40 per cent. OCC imposes a 1.5 per cent tax on the c.i.f. value of imports, including the fees for preshipment inspection by BIVAC if the value of the goods exceeds US$2,500. OGEFREM (Multimodal Freight Administration Office) applies a 0.5 per cent tax. The FPI levies an additional 2 per cent for a loan fund for SMEs, to which is added an additional tax, the BIC. Lastly, a sales tax, the turnover tax, is imposed at a rate ranging from 3 to 13 per cent according to the nature of the goods. The total of all these non-tariff levies often reaches a level comparable to that of the customs duty, resulting in fairly heavy port taxation. Like customs duty, they apply to the c.i.f. value of goods imported, which is itself increased by high import costs (as explained in Chapter 3).

2.55 This micro-taxation is inefficient because its fragmentation raises the administrative cost of collecting the sums owing. Furthermore, the authorities appear to have an extremely broad measure of discretionary or even sometimes predatory, power, according to information obtained from the private sector. The various authorities impose taxes whose rate and basis are not explicit, without taking account of the punitive impact of the sum of these contributions on return on capital in an economic environment as risky as that of the DRC. Figure 15 shows the distribution of customs duties actually applied, calculated as a (percentage) ratio of customs revenue, on the c.i.f. value of imports, for a sample of transactions provided by DGDA.

Figure 15: Distribution of customs duty collected

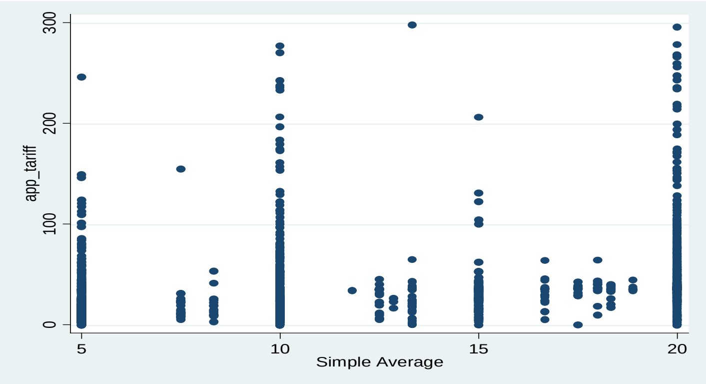


Source: OFIDA, calculations by the mission.

2.56 It can be seen that although the mode of distribution is around 10 %, as determined in the tariff structure for customs duty, there is a long line towards the right showing transactions that are highly taxed. The *average* of the duties collected in fact corresponds to 26.7 % of the c.i.f. value of the goods imported, i.e. well above the 10 % as declared in the tariff structure.

2.57 Figure 16 shows the disorganized nature of port taxation. The horizontal axis measures nominal duty and the vertical axis measures the ratio of duty collected to the c.i.f. value of imports. The points - each point corresponding to one transaction - should be either on the diagonal (if there are no exemptions) or below it (if there are exemptions). It can be seen, however, that many points are well above the diagonal, some even exceeding 100 per cent, which means that the duty collected exceeds the value of the goods imported.

Figure 16: Nominal duty vs. Duty collected



Source: OFIDA, calculations by the mission.

2.58 The lack of efficiency in tariff collection is made worse by the presence of numerous exemptions. Imports eligible under the Mining Code or the Investment Code[6], those imported by NGOs, diplomatic missions or charitable oganizations are, to varying degrees, exempt from customs duty. In the DRC, there are a large number of these. In the first half of 2009, the Congolese customs estimated that the various exemptions amounted to US$66 million, in other words almost 30 per cent of tariff revenue. To these official exemptions must be added ad hoc exemptions allowed by the Prime Minister's Office on a discretionary basis. Informal estimates of the amount of discretionary exemptions range from 10 per cent to one third of total exemptions.

[6] A 5 per cent administrative fee is, however, levied on imports eligible under the Investment Code.

2.59 Formally, the DRC imposes few non-tariff measures. There are no banned imports except for arms, pornographic articles and certain plants. Petroleum products are subject to regulations based on a reference price. As Chapter 3 of this report describes, however, there are many obstacles to trade facilitation which are de facto tantamount to non-tariff measures.

Export measures

2.60 The DRC imposes export taxes on a certain number of commodities. For example, exports of coffee are taxed at a rate of 1 per cent, for timber exports, the rate is 6 per cent, and for mining exports it varies around 10 per cent. These taxes can be explained by the fact that the majority of commodities thus taxed are not consumed in the DRC, or only to a small extent, for example, tea, coffee, etc. The majority of these products are exported unprocessed because there is no processing capacity and they cannot therefore be sold on the domestic market as consumer goods. Consequently, the export taxes correspond to taxes on production and do not introduce any special distortion as taxes on trade (although, by definition, any indirect tax distorts the prices in question).

2.61 Although the existence of export taxes obeys a clear logic and the nominal rates are reasonable, administering such taxes on the spot suffers from the same problems of governance and coordination among Government bodies as those mentioned throughout this report. These taxes have to be added to transport and f.o.b. charges, which are high because of the lack of infrastructure, and the chronic insecurity in the Eastern part of the country also has to be taken into account. Moreover, numerous micro-levies that are imposed by authorities only come into existence when taxes are to be levied have to be added to the official taxes. The total amount can be substantial, particularly when the difficult circumstances of production and transport lower domestic producers' margins of competitiveness. The total can exceed one third of the field price in the case of coffee

2.62 The DRC, as an exporter of commodities rather than manufactures, has no specific export promotion policy. For example, it has no export promotion agency, does not refund duty paid on inputs imported by exporters (*duty* drawback) and has no free zone. There is no Government agency dealing with diversification of exports. Although this lack of an export policy is understandable in a context in which winning back domestic markets would already be progress, in the long term this is potentially an area to be explored.

2.3.3 **Preferential agreements**

2.63 The DRC is a signatory of a number of substantial preferential agreements. The WTO reference center in DRC could be updated, and the DRC could benefit from the assistance of the ITC to organize the texts of trade agreements and increase access and visibility of these issues for national authorities.

North-South preferential regimes

2.64 The DRC is eligible for the GSP (Generalized System of Preferences) and duty-free access to the European market under the EBA initiative. Access is automatic for countries with LDC status. The DRC, however, mainly exports commodities (diamonds, copper, cobalt, gold), whose MFN tariffs are very low everywhere (some 95 per cent of its exports are subject to a zero MFN rate, compared to an average of 45 per cent for LDCs as a whole). Because of its current export structure, the benefits of the preferences under the EBA initiative are not that significant.

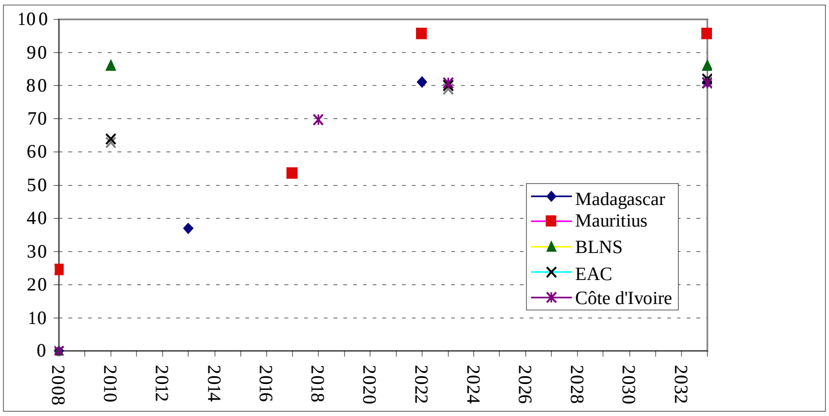
2.65 It is inevitable that relations with the EU will change. All the ACP countries, including the DRC, have for a number of years been negotiating the signing of EPAs with the EU. These will replace the former Cotonou Agreement - itself the successor to the Lomé Convention - which was not reciprocal and was thus contrary to the rules of the WTO. The EPAs, on the other hand, are reciprocal free trade agreements. This does not mean that all bilateral trade must be liberalized. Article XXIV of the GATT provides that "substantially all the trade" must be liberalized. There is currently no case law attributing a precise meaning to this expression and to date the WTO Appellate Body has never been called upon to rule on the consistency of an EPA with Article XXIV. It is widely considered, however, that 80 to 90 per cent of trade should be covered by the elimination of intra-bloc tariffs.

2.66 The DRC has taken on a number of initiatives to improve effectiveness of its participation in negoatiaions. The “National Forum for Development and Trade Policy” was created by a ministerial decision in 2004 to contribute to the preparation and follow-up of negotiations. A study was commissioned to examine the impact of APEs on the national economy. Sectoral consultations, aimed to determine a list of sensitive products and in October 2007 a seminar was held on this subject for parliamentarians.

2.67 Negotiations are proceeding slowly, and at the end date of the Cotonou Convention (December 31, 2007) had not reached a conclusion. They were revived in February 2008, and again abandoned in February 2009. The difficulties were multiple, and span issues such as appropriate accompanying measures, services, trade related subjects (such as ruled of origin, intellectual property, competition, public procurement) and, certainly, the subject of tariff dismantling.

2.68 The risks inherent in tariff dismantling are limited. Like Sao Tomé e Principe, the DRC has decided to join CEMAC for the negotiations on EPAs (and also to which CEEAC is associated). These have been going on since 2003, but have not yet been concluded as far as CEMAC/CEEAC is concerned. The CEMAC States are concerned at the planned tariff dismantling and its financial and trade consequences. In most of the cases in which negotiations have been concluded, this tariff dismantling will take place over a very long period, as shown in Figure 17. This shows the percentage of trade to be liberalized according to the timeframe negotiated. It will be seen that the figure of 80 to 90 per cent will only be reached after 2020, with the exception of the BLNS group (Botswana, Lesotho, Namibia and Swaziland) and the EAC (East African Community).

Figure 17: Timeframe for tariff dismantling under negotiated EPAs



Note: The vertical axis shows the percentage of trade to be liberalized according to the timeframe negotiated by each country/group. * Botswana/Lesotho/Namibia/Swaziland ** Burundi/ Kenya/Rwanda/Tanzania/Uganda.

Source: PREM AFTP3 mission calculations 3 October 2009, Kinshasa.

2.69 The CEMAC countries want tariff dismantling restricted to 71 per cent of their imports from the EU, with a dismantling period of 15 years, whereas the EU wants a shorter period and coverage of 80 per cent of trade.

2.70 Tariff dismantling has two foreseeable consequences: firstly, domestic producers losing tariff protection will be exposed to European competition; secondly, the State will lose tariff revenue. The first argument is only of limited scope because of the current structure of the Congolese economy. It produces few goods that compete directly with those of the EU and, because of the difference in the factor situation, the problem is unlikely to arise even in the medium term. Furthermore, in the DRC the cost of imports is considerably higher than the tariff alone because of the numerous trade facilitation obstacles, described in detail in Chapter 3 of this report. The lower delivery price of European goods is unlikely to lead to large job losses in the DRC. Also, a list of exclusions that covers 20% of imports would permit an extensive protection of traditional agricultural production as well as local industrial activities. Finally, an array of safeguards would allow protection of local production, notably food and infant industries, from major disruptions that may arise from imports coming from the EU.

2.71 The second argument (loss of tariff revenue) is potentially more significant in those LDCs where the fiscal structure is highly dependent on port taxation. A very approximate idea of the tariffs foregone because of the elimination of customs duty on imports from the EU can be obtained by simulation. In this report, a partial equilibrium model has been used in which variations in the tariff lead to "creation of trade" effects (domestic products are replaced by imports - in reality marginal in the case of the DRC because there is a low level of supply) and "diversion of trade" effects by which the preferential partner squeezes out other trade partners. The model is described in Boxes 1 and 2 below. The model used, TRIST, was developed by the World Bank and is particularly noteworthy because it takes into account exemptions and various taxes. In the DRC's case, as there is no list of exemptions by product, a reduction factor of around 30 per cent of simulated tariff losses is used.

Box 1: Simulation of tariff revenue foregone in the TRIST model

The major part of TRIST is the model that is the basis for quantifying the impact of trade reform scenarios on imports, revenue and production. For each product, the model first determines the changes caused to domestic prices and import prices for each trade partner in response to the tariff reform. The variation in trade flows resulting from the price variation is then modelled in three consecutive stages.

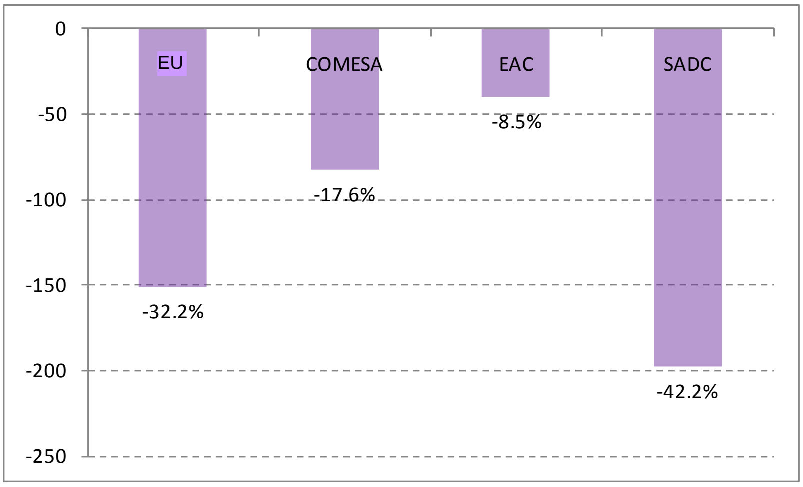
First of all, the model takes into account the possible substitution of imports from a trade partner *vis-à-vis* imports from other partners following trends in the relative prices of various suppliers as a result of the preferential changes in tariffs: the exporter substitution effect.

Secondly, the model takes into account the substitution between imports and domestic production as the relative price of global imports of the product changes according to the price of domestic production: the domestic substitution effect.

Thirdly, the model takes into account a demand effect (real revenue) according to which global consumption of a product changes in response to a change in the global price of the product: the demand effect.

2.72 The results of the simulation, together with the results of other simulations described later in the text, are shown in Figure 18. The top of the first column shows the effect of eliminating tariffs on tariff revenue. There is a marked drop in tariff revenue (32.2 per cent of its original value, some US$150 million). By only liberalizing 71 per cent of trade, as in the CEMAC proposal, and with an average of 30 per cent of exemptions, the reduction in tariff revenue is US$75 million, or 16 per cent of the nominal total. If liberalization covers 80 per cent of imports, as proposed by the EU, the reduction in tariff revenue becomes US$84 million, equivalent to 18 per cent of the original total. The difference between the positions therefore amounts to some US$11 million annually, a fraction of the aid disbursed each year. These results are preliminary and must be interpreted with great care, because they do not take into account the effect of accompanying measures that would be part of an EPA, particularly customs and fiscal reforms. A complete analysis of the fiscal impact of EPAs should take into account all reforms simultaneously, and national authorities are encouraged to undertake or commission such an analysis. An analysis of this type could be based on the model of the ECOPA study carried out for Congo Brazzaville.

Figure 18: Tariff revenue foregone, in US$ millions



Note: The height of each bar indicates the tariff revenue foregone as a result of total elimination of tariffs with partners to the agreement in question, and the percentage indicated below is defined in relation to current tariff revenue. These basic estimates do not take into account exemptions (see the discussion in the text). Because there are no reliable statistical data from the national authorities (see above in this Chapter), the simulation is based on mirror data available in COMTRADE. Likewise, the tariffs applied are the official tariffs and do not take into account additional taxes or ad hoc exemptions applied at the border. Lastly, the elasticities are unitary for price elasticity of import demand and 1.5 for substitution elasticity. Plausible variations in substitution elasticity (between 1 and 4) produce limited variations in the amount of tariff revenue foregone.

Source: COMTRADE, calculations by the mission.

Box 2: Simulation of tariff revenue foregone in the TRIST model (cont'd)

The TRIST model is founded on five basic hypotheses:

First of all, the model is derived from the standard theory of consumer demand and uses elasticities to determine the extent of demand's response to price changes resulting from tariff reform.

Secondly, the calculations are based on Armington's standard hypothesis (1969) of imperfect substitution by imports from various trade partners because consumers differentiate between products according to their place of production.

Third, the model does not take into account direct substitution among various products. In other words, each product is modelled as a market separated and isolated from other markets. It is undoubtedly the most extreme hypothesis in this model. Nevertheless, abandoning it would not only complicate the calculations but would also mean the need for additional ad hoc hypotheses concerning the precise definition of the additional substitution effect and its parameterization.

Fourth, it is assumed that all tariff changes are wholly reflected in prices and that the global price remains unchanged. In other words, we assume infinite elasticity of supplies of imports so that changes in demand in the country of import have no impact on the global price of the product; a realistic hypothesis for small low-income economies.

Fifth, the TRIST model is a partial equilibrium model which deals with demand for each product in isolation from the rest of the economy. Consequently, it does not take into account inter and intra-sectoral links or the impact of tariff changes on the economy as a whole.

2.73 The implications are potentially even more important, in the long term, as far as rules of origin are concerned. These determine whether goods are eligible for preferential treatment. The European Union has harmonized its preferential rules of origin in the PANEURO system, which allows cumulation between blocs. Even harmonized, however, these rules are still complex, expensive to comply with, and restrictive, and making them simpler or more flexible is an important element for access to the European market. The importance of rules of origin differs according to sector. For commodities, they are not so important because the potential for import of inputs is limited. On the other hand, in the case of manufactures, they may be of significance, particularly in the clothing sector where tariff preferences are more important than elsewhere and there are production chains which stretch across borders.

2.74 The Rules of Origin outlined in the EPAs are more advantageous for ACP countries than those of the Cotonou Agreement or the “Everything but Arms” agreement. Already negotiatied, these rules can be adapted on a case by case basis. The Country of Origin notion is more flexible in the EPA framework than in the Cotonou Agreement. For example, the criteria “simple transformation” for textiles allows some countries to export from now on products to Europe that have been created from imported fabric. This wasn’t possible under previous agreements, and is not possible under the GSP framework.

2.75 The DRC is not particularly concerned by this for the moment, but if the business climate improves sufficiently to permit a small clothing industry to develop, rules of origin would become an important issue. The European Union is considering making rules of origin more flexible under the EBA initiative, which would make clothing articles eligible as a result of simply being worked (in other words, made with imported fabric). This reform of the EBA rules of origin would potentially benefit LDCs in sub-Saharan Africa, where weaving cannot be profitable with the current infrastructure.

2.76 As regards services, CEMAC is seeking a more substantial offer from the EU, the current offer being close to the Doha positions. On the other hand, the CEMAC countries are reluctant to make commitments in 40 per cent of the services sector, as demanded by the EU. In relation to intellectual property, the European Union calls for the strict observance of the TRIPS Agreement, while CEMAC has not yet adopted any specific position.

2.77 No matter the results of tariff simulations, it is important for the authorities to keep an overall vision of relations with the EU, an important partner for national development whether seen through the lens of the many aspects of EPAs, or through the number of other avenues for cooperation. Negotiations should, thus, reflect the complex and long term aspects of DRC's relationship with the EU, beyond strict questions of tariff dismantling which, despite its relevance to public finances, seems to take much too much time in debates about trade policy.

Regionalism

2.78 As far as regionalism is concerned, the DRC faces a problem common to many African countries: It must opt for a clear regional integration strategy in order not to create contradictory commitments. The DRC in fact negotiated the EPA with CEMAC, with which it has few economic complementarities; it is also a member of SADC and COMESA, although it has not adopted their free-trade protocols. The strategic choices which the DRC must make will have differing implications in terms of regional integration and tariff revenue. Strictly fiscal and trade considerations are not the only relevant ones, regional cooperation can also take several different forms and the choices are not final taking into account the prospects for a SADC-COMESA rapprochement.

2.79 Although it has negotiated EPAs with CEMAC, the DRC is not a member of this zone. It is rather a bona fide member of ECCAS, to which CEMAC members belong as well. However, trade between these two zones is rather limited, and the potential for integration is small. . On the other hand, the DRC is a member of both COMESA and SADC, two important regional groups, but does not implement these zones' free trade agreements.

2.80 The DRC therefore has to decide in which direction it wants to see its regional arrangements develop. Taking into account international experience, it can be seen that the benefits of regionalism are even greater when it is "open regionalism", going hand-in-hand with unilateral liberalization, in other words, based on the MFN clause principle. The prime goal for the Congolese authorities should be to encourage the unhindered transit of goods and services through all border posts rather than to micro-manage tariff preferences and complex rules of origin in an economy already suffering from political uncertainty. Furthermore, the benefits of regionalism stem more from cooperation regarding regional public goods than from tariff differences.

2.81 The benefits of regionalism derive from several sources. From a strictly trade point of view, they are generated by increased competition in the preferential area that allows the most efficient producers to have larger markets and to replace less efficient producers (which is called the "creation of trade"). These benefits are substantial when the integration partners are natural partners, that is to say when imports by one complement exports by the other. In addition, the experience of South-South regionalism suggests that it generates important "public goods" in terms of collective security and management of common resources. Aspects of cooperation other than trade are therefore important when defining a trade integration strategy. Lastly, the experience of the EU suggests that supranational community institutions constitute a powerful means of combating a takeover by particular lobbies or interests. In the case of countries facing governance problems, the delegation of regulatory functions in sectors with a cross-border dimension - trade facilitation and transit, telecommunications regulation, high-voltage electricity networks - can be an effective means of modernization.

Box 3: COMESA, moving towards a customs union

COMESA, the common market of East African States, is a preferential zone set up in 1981 with the aim of creating an economic and monetary union for 400 million Africans. Although the creation of a real customs union through the adoption of a common external tariff has proved difficult, COMESA has nevertheless made progress in internal trade liberalization. Even though implementation on the spot has been uneven, the internal tariff on most intra-bloc trade has been abolished and trade has shot up from US$3 billion in 2000 to US$15 billion today. At the same time, COMESA has set up several regional institutions, including the African Trade Insurance Agency, the regional payments and settlements scheme, and the COMESA Fund Adjustment Facility, which provides compensation for tariff losses. Burundi and Rwanda, for example, have received compensation (€4.4 million and €10.3 million, respectively). The DRC has not yet started to apply the preferential customs duty reduction to its COMESA partners, but the COMESA Secretariat has agreed to finance an evaluation of tariff revenue that would be foregone if the DRC applied the free-trade protocol. A preliminary indication of these tariff losses can be found in Figure 18 and is discussed in the text.

Furthermore, a summit held at Victoria Falls in June 2009 officially launched COMESA's transformation into a customs union. Unlike the elimination of intra-bloc tariffs, the DRC's convergence of tariffs with the COMESA common external tariff should not raise any major problems because they are similar. In addition, members will also be eligible for compensation if the convergence with the common external tariff causes tariff revenue losses. Lastly, there is considerable flexibility. A transitional period of three years is provided for products determined as sensitive by member countries. A regular review procedure is also envisaged to deal with any problems arising during implementation.

2.82 As far as one can tell in the absence of any reliable figures on overland trade, COMESA and EAC countries are natural partners for the DRC. The dynamic trade across the border suggests a degree of complementarity because at the present time it is not covered by any preferential regime. As mentioned above, the advantages of South-South regionalism have more to do with development of cooperation in a number of areas than the pure trade impact. If the DRC's relations with its neighbours to the East improve, then it might be that the most important areas for fruitful cooperation in terms of security and transit (*inter alia*) would be with members of EAC, showing a level of dynamism in regard to reform, than with other possible candidates for regional integration. The adoption of some of COMESA's progressive measures in terms of trade facilitation would benefit the DRC (uniform transit taxes, yellow insurance card for truckers, COMESA licence, load limits harmonized, common customs documents, and common customs bonds). On the other hand, it is likely that the holding of regular consultations within the framework of regional agreements would also enhance political dialogue with countries in the Great Lakes region. Integrating the country by rehabilitating traditional transport corridors would then take place within the framework of economically efficient regional integration allowing it to open up and develop its national resources.

2.83 Furthermore, the external tariffs of COMESA and of the DRC are fairly similar. COMESA's common external tariff has three rates, namely, 0, 10 and 25 per cent for product categories that are fairly similar to those in the DRC tariff (even though these categories have been the subject of laborious negotiations among COMESA partners).

2.84 The maximum tariff revenue that might be forgone if the DRC applied the COMESA free trade protocol of COMESA is indicated in Figure 18 above.

2.85 . It would be US$82 million, i.e. 17.6 per cent of the nominal total. As is the case for the EPAs, this amount has to be reduced in order to take into account sensitive products and exemptions. By applying a standard formula (20 per cent sensitive products, 30 per cent exemptions), one arrives at a tariff loss of US$46 million, approximately 10 per cent of the total. This amount only partly takes into account, however, overland traffic at the Eastern borders of the DRC, which is very inadequately recorded by DGDA and even, probably by the DRC's partners whose export data were used for the simulation. The fiscal revenue generated by this border traffic, however, is siphoned off many times before reaching the Treasury. In any event, some of this amount could lead to compensation from the COMESA Compensation Fund. Rwanda and Burundi, for example, received compensation of US$15 million and US$6 million, respectively.

Box 4: SADC at the crossroads

Like COMESA, SADC is a preferential trade area. Founded under the name of SADCC in 1980, it expanded with the end of apartheid in South Africa and changed its objective. Its aim is now the establishment of a common market and, in the end, an economic and monetary union. As is the case for COMESA, progress towards the dismantling of barriers to intra-bloc trade has been laborious. The free-trade protocol was signed in Johannesburg in 2008, 12 years after it was adopted in Maseru. Liberalization now covers 85 per cent of trade in goods, but Angola and the Seychelles as well as the DRC are not yet taking part. The member States have not yet managed to reach agreement on a nomenclature for the definition of tariffs (some of them use the 2007 HS, others not). Liberalization of intra-bloc trade is still suffering from the presence of numerous non-tariff barriers. Standards for food products, many of which are private, differ greatly from one country to another because of unequal levels of development. Considerable progress has been made on the difficult issue of rules of origin, in particular, for wheat, flour and their by-products. Application on-the-spot is still uneven and some customs authorities occasionally refuse to recognize the certificates of origin issued by the authorities in partner countries on futile pretexts (e.g. the colour of the form). Lastly, liberalization has not been extended to services.

Convergence towards a common external tariff should occur during 2010. In addition, talks have begun on the eventual convergence of the SADC, COMESA and EAC areas with a view to a vast free trade area covering South and East Africa, which would resolve the problem of conflictual obligations for countries envisaging joining both blocs.

2.86 The alternative to adoption of the COMESA free-trade protocol is the adoption of that of SADC, which came into effect in 2008 (see Box 4). The impact of preferential liberalization with SADC is limited by two phenomena. On the one hand, most of the products exported by the DRC are commodities subject to low or zero MFN rates. On the other, some of the DRC's imports from SADC are imports by mining companies, which go through the Durban-Lubumbashi corridor. They are therefore subject to the special fiscal regime under the Mining Code and so are excluded from the common regime with the result that they would probably be little affected by the adoption of the SADC free-trade protocol.

2.87 Setting aside the question of imports under the Mining Code, the impact of ratification of the SADC free trade agreement by the DRC on fiscal revenue is shown in Figure 18, it can be seen that the revenue foregone would be higher, amounting to US$197 million, i.e. 42 per cent of the total. By applying the usual formula, this could be brought down to US$110 million, or 24 per cent of the total, which stills remains a large amount. These figures should be interpreted with caution because overland trade flows are only very inadequately recorded.

Chapter 3 TRADE FACILITATION

3.1 The DRC's trade integration into the world markets is hampered by (i) cumbersome, slow and expensive international trade procedures compared to other countries in the same situation; (ii) mandates and operating procedures of a number of institutions involved in import and export procedures; and (iii) an obsolete legal and regulatory framework which is inadequate to respond to the needs of a modern economy. Deep reforms must be introduced in each of these three areas. In addition, the Government should develop a "formal facilitation" policy to help replace the numerous informal/unofficial payments that are currently required and which are often referred to as "intervention expenses" or administrative and operational costs, extraordinary work and overtime that cloud external trade transactions and make them difficult to predict.

3.2 After making a few comparisons, this chapter will present international trade transactions in the DRC's most used corridors, from the point of view of major stakeholders, exporters, importers and key private economic operators (forwarding agents and ship owners). Facts will be reviewed as far as possible based on import and export "operations-type" data. It will then engage in an institutional analysis to highlight the mandates and operational modes of key institutions as well as their "interests". This part of the chapter also emphasizes the substantial amounts collected by key institutions (at least US$350 million per year) for trade checks and regulation, and underlines the fact that operators believe that too often, collected levies offer no equivalent services in return.

3.3 "Formal facilitation" will require a significant assessment in attitude and behavior of all stakeholders, both private and public. Formal facilitation is not synonymous with laxity, but it rather implies fluidity and regularity resulting from : (i) compliance with a legal and regulatory framework that is adequate to respond to the needs of formal facilitation; (ii) better organization of both public institutions and private operators; and (iii) better coordination and cooperation between public and private sector institutions.

3.4 In fact, the diagnosis of this chapter clearly reveals the existence of important issues concerning (i) procedures; (ii) key institutions; (iii) the legal and regulatory framework, and (iv) the lack of coordination and cooperation among institutions. It is therefore necessary to reform not only the procedures but also key institutions and the legal and regulatory framework governing them. An approach based on procedural reform would not be enough since it is likely to (i) perpetuate existing procedures which no longer respond to the DRC's current needs; (ii) not be able to deal with the other issues that create high costs in terms of import and export transactions. In addition, it is necessary to promote improved coordination and cooperation of the activities of all stakeholders.

3.5 The goal of this chapter is also to help develop two Governmental initiatives that are in the making: (i) establish a Single Integrated Virtual Window; and (ii) possible accession to the Agreement on Trade Facilitation currently under negotiation at the WTO.

3.6 The first initiative deals with reforms which are being prepared at the Office of the Prime Minister to create a Single Integrated Virtual Window. This reform is characterized by a three-component system: (i) a pre-customs clearance Window; (ii) a customs clearance Window; and (iii) a post customs clearance Window. Emphasis is currently being put on setting up a pre-customs clearance Single Window where all the formalities required the preparation of files as a single bundle, to be submitted electronically to the DGDA (former OFIDA). Customs clearance operations will then be conducted in the customs clearance Single Window. The third Window will handle post customs clearance operations.

3.7 With respect to the second initiative, it should be noted that the DRC is preparing the country's possible accession to the Agreement on Trade Facilitation currently under negotiation at the WTO. Congolese authorities have already conducted a self-assessment (April 14-18, 2008). The assessment showed that the DRC is in compliance with 9 measurements, i.e. 20%; partially complies with 16 measurements (33%); and not in compliance with 17 measurements (40%). Three measurements were not applicable to the Congolese context. More broadly, it was concluded that the situation is not good for the DRC for the following reasons (i) multiple services at the borders,; (ii) lack of coordination of activities at the various services; (iii) duplication of formalities at the borders; (iv) inadequate computer and technological tools and skills ; (v) obsolete customs legislation ; (vi) lack of transparency in the way certain taxes are calculated at the borders ; (vii) inadequate social protection for civil servants working at the borders ; (viii) high level of customs fraud ; (ix) resistance to change ; (x) high costs of some fees; and (xi) lack of a national negotiation committee. Lastly, the country is very far from meeting the standards relating to three key Articles of the GATT Agreement: (i) freedom of transit (Article V); (ii) import and export fees and formalities (Article VIII); and (iii) publication and implementation of trade regulations.

3.8 The work undertaken in this chapter shows that the authorities have become aware of the seriousness of the situation but only in certain areas. One can point, in the one hand, to efforts made to (i) modernize the customs code (ii) establish a true single window, while on the other hand, note that major problems still exist in (iii) fees and levies ; (iv) lack of transparency ; (v) duplication of formalities and (vi) resistance to change.

3.1 INTERNATIONAL COMPARISONS

3.9 Comparisons made in the World Bank annual report "Doing Business 2009" present a gloomy picture[7]. According to the report, the DRC placed 184th out of 185 in the world rankings and 165th for external trade**.**

3.10 Table 2 assesses the documents/time/costs ratio between the DRC and groups of countries (Sub-Saharan Africa, North Africa and Middle East, South and South East Asia, Asia-Pacific and Eastern Europe). In comparison with other African countries, the DRC requires approximately the same number of documents both for import and exports transactions, but the time needed to accomplish import and export formalities is 30 to 60% longer. Lastly, logistics costs are 30% higher for exports but more or less the same for imports.

[7] Doing Business, World Bank and International Financial Corporation, 2009

Table 2: Comparisons of external trade procedures indicators

Indicators / Region	Number of documents for exports	Time to complete export formalities	Costs of exports procedures ($)	Number of documents for import	Time to complete import formalities	Cost of import procedures (4)
DRC	**8**	**44**	**2,607**	**9**	**63**	**2,483**
DRC/East Asia	**1.2**	**1.9**	**2.9**	**1.3**	**2.6**	**2.6**
DRC/Eastern Europe	**1.2**	**1.6**	**1.6**	**1.2**	**2.2**	**1.4**
DRC/ North Africa	**1.3**	**2.0**	**2.5**	**1.2**	**2.4**	**2.0**
DRC/South Asia	**0.9**	**1.4**	**1.9**	**1.0**	**2.0**	**1.6**
DRC/Subsaharan Africa	**1.0**	**1.3**	**1.3**	**1.0**	**1.6**	**1.0**

Source: Doing Business and TF: trading across borders.xls

3.11 The table above assesses procedure costs based on the typical operation of a 20-foot container, in export and import transactions.

Table 3: Cost of import and export procedures

	Imports		Exports	
Procedure	Number of days	Cost in $	Number of days	Cost in $
Preparation of documents	41	342	23	870
Customs clearance	11	300	5	300
Port transit	9	341	14	337
Domestic Transportation	2	1500	2	1100
Total	63	2483	44	2607

Source: DRC Database Indicators_v1

3.12 The DRC's operators consider that comparisons with non African countries are very important in order to be competitive globally. In their opinion, transactions in the DRC are more costly, slower and more risky than in other competing African or non African countries. A number of observations have been made as regards the high cost of transportation, the shortcomings of public providers, including RVM, RVF, RVA, Port of Matadi, OCC, OGEFREM and DGDA, interference by other institutions such as DGM or by provincial authorities in import and export transactions, etc., and the constant imposition by public bodies and provinces of new levies and parafiscal taxes, often without a sound legal basis or equivalent service counterpart. To them, these levies are taxes, pure and simple.

3.13 These issues are addressed in detail in the next section dealing with the Matadi-Kinshasa, the South (Sakania-Kasumbalesa-Lubumbashi) and the East corridors.

3.2 COST ANALYSIS OF PROCEDURES BY CORRIDOR

3.2.1 The Matadi-Kinshasa Corridor

Imports

3.14 NaThe analysis shows that an imported product, bought US$ 157.6 per MT FOB (for a total volume of 10 000 tons) costs at least $499 per MT when it arrives in Kinshasa, i.e. a multiplier of 3.2. The differential is explained by (i) sea transport (ii) port fees (RVM, handling on board, handling on the ground/transit etc.)[8]; (iii) imports duties; (iv) transit fees; and (V) transportation cost to Kinshasa.

Table 4: Structure of production cost of an imported product delivered in Kinshasa[9]

		% of CIF
	Value FOB ($ 157.6)	64.1
	Fret	35.9
	Value CF ($248.6)	100
RVM	Royalties	5.92
CMDC	Commissions	0.33
OGEFREM l	Commissions	1.88
OCC	Commissions + Tally	3.9
ONATRA Total	Handling	24.6
Customs (DGDA)		24.3
FPI	2 % du CF+Customs	
Remuneration AM plus Transitory fees	11% ONATRA + 4% Customs	
Transport to Kinshasa (i)	US $ 100 / TM	40.68
Transpor to Kinshasa (ii)	US $ 100 / TM	56.95
Total costs paid: Kinshasa		
Cost FOB	US $ 157.6	
Multiplicator (Costs/FOB) (i)	US $ 499.3	3.2
Multiplicator (Costs/FOB) (ii)	US $ 539.3	3.4

[8] RFM states that merchandize aboard the ship does not concern it so that the importer should pay for its servives. RVM is paid for its services by the shipowner to whom the importer has already paid shipping fees. To put it plainly, the shipowner pays to RVM a portion of the shipping fees for its ship to use the maritime reach.

[9] For RVM, the consultant should indicate that the port of Matadi has navigatgion aids and piloting for 150 km, whereas they are for only 2 km for Pointe Noire. In addition, as regards dredging, the port of Matadi requires permanent dredging, while it is once every 5 years for Pointe Noire.

3.15 In the last column, this table shows the structure of the costs expressed as a percentage of the CIF value. The highest cost is for truck transportation between Kinshasa and Matadi and accounts for 40.68% of the CIF value (US$100 per ton in a 20-foot container, each container carrying 20 tons) followed by that of sea transportation (35.90%). ONATRA –more exactly the port of Matadi – ranks 3rd (24.6 %) for lift-on/lift-off charges (unloading) in the amount of €17.3 per MT or around $28, and roll-on/roll-off systems (transit) valued at $32 per MT. The Customs ranks 4th with 24.3% (customs duties of 10% and turnover tax of 13%). RVM fee (5.92%) ranks 5th with 5.92%.

3.16 OCC, OGEFREM, and CMDC represent respectively 3.90, 1.88 and 0.33 %, totaling 6.11% of the CIF value. By adding the remunerative fee of 1% due to customs (0.25% for Customs and 0.75% for AUFS), the cumulative levies would be 7.11%. In a broader case where the product will be subject to FPI (2% of the CIF value in addition to import duties), total levies would be 9.11%.[10] Inclusion of the forwarding agents' fees would lead to an increase in the amount of US$15 per ton.

3.17 If "import duties" are excluded[11], these figures suggest that reducing transaction costs would require interventions throughout the procedure chain. In any case, it would be advisable to review (i) the nature and suitability of institutional interventions; (ii) the level and type of financing where such intervention is justified.

3.18 Transportation cost from Matadi to Kinshasa, estimated between $100 and $140 per MT for goods transported in containers, can be explained on the one hand by the intrinsic costs of the sector and on the other hand by the fact that containers are usually returned empty to Matadi. Transportation is done by road. While rail services are less expensive, they are much slower and much less reliable and are thus not preferred by potential users. In the long term, restoring a more reliable rail network may have substantial economic impact by creating genuine competition on one of the key components of product cost before the product is placed on the market.

3.19 Sea transportation reflects the general nature of the sea transportation market on the west and central African coast and various features specific to the "DRC": lack of fairway dredging, excessive delays in Matadi because of dysfunctional lift-on/lift-off and roll-on/roll-off operations, etc. Generally, operators consider that sea transportation to the port of Matadi is intrinsically expensive due to these DRC specific factors.

3.20 For the port of Matadi, operators state that levies for lift-on/lift-off (€17.3 per ton) are high, all the more since shipping agents/forwarding agents often have to support handling operations, especially by providing equipment. The same goes for roll-on/roll-off for which the load is $32 per ton. Initial international comparisons suggest that differences with Abidjan are around 100% for the containers and 50% for conventional means. Differences with other African ports (Dar es Salaam, Douala, Accra, Dakar, and Lagos) are even greater.

3.21 These international comparisons draw attention to current shortcomings including dilapidated and even obsolete very low productivity equipment. These shortcomings result in unloading speeds that are slower than expected, thereby extending the stay of ships. Burdensome port fees are also partly attributable to excessive personnel costs throughout ONATRA, which is facing serious staff management problems including the impossibility of laying off and retiring staff. Overall, 72% of the port's revenue is transferred to Kinshasa to finance other ONATRA departments.

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[10] Inclusion of fees paid to Shipping Agents and Forwarding Agents' fees does not significantly affect the values arriving in Kinshasa.

[11] Because the amount of import duties varies according to the level of customs duties, consumer law and turnover tax law.

3.22 Restructuring the port of Matadi and ONATRA may significantly improve the situation with duties and charges.

3.23 As regards RVM, several issues were raised, including : (i) the relative high cost of the GRT fee (€3.86 per GRT ton) which is calculated using the total weight of the ship and not the weight of the goods to be unloaded; and (ii) the difficulty in navigating through the channel due to the lack of beacons and dredging[12]. Experts stress the need to quickly improve RVM management, which would in turn, reduce the GRT unit fee. In addition, dredging the channel by 25-26 feet would result in increased sea traffic at the port with ships calling directly at Matadi without trans-shipment in Pointe-Noire. Removing the need to use feeder vessels will help save on transshipment charges. The expected result would be a significant reduction of the effective fee per ton charged by RVM.

3.24 The missions and fees of OCC, OGEFREM, CMDC, and FPI should be reviewed even though the latter has no direct impact on the management of external trade transactions.

3.25 For OCC, fees actually represent 3.90% of the CIF value rather than the frequently mentioned rate of 1.5% or 2%.[13] This is because the "tally" (counting containers/parcels at the time of unloading) at US$5 per MT (US$ 5.90 ICA inclusive) representing 2.4 % of the CIF value in the example used for this chapter. Part of the 2 % levy is transferred to a company, BIVAC, for payment of its pre-loading inspection services. According to operators, the fees charged by OCC, be it the 2% or the tally are not commensurate with the level of services provided but are actual taxes, and do not include the inspection work done before departure for the DRC. OCC's annual turnover amounted to around US$103 million (59.2 billion Congolese francs) for the year 2008, mostly generated by import and export control activities. Personnel costs were approximately 70% of the turnover, with wage costs averaging US$18700.[14] OCC is planning to increase its basic rate above the 2% recently approved by the Government.

3.26 Concerning OGEFREM, a levy of 0.6% (more exactly 0.59%) of the CIF value is commonly mentioned. Information in Table 4 shows that it is significantly underestimated. In reality, amounts collected by OGEFREM represent 1.88% of the CIF value. This is due to three fees: (i) 1.8% of the freight value of almost US$15900[15]; (ii) 0.59% of the CIF value[16], or about US$22600; and (iii) fees for the "Electronic Import Information Form (FERI)" of US$7800. Operators consider that none of these fees corresponds to a useful provision of services and disagree not only with the idea of having the fees but also with their high level, the most recent being the FERI. OGEFREM points out that this revenue is not generated through deductions, much less taxes, but rather, through commissions, which are

[12] According to RVM, the navigation channel is adequately beaconed. The work of the RVM concerns the ship safety, not the safety of the goods on board. That is why RVM's tariffs relate only to the ship and apply to the shipowner. Moreover, it is not obvious that if RVM lowers its rates, the shipowner will ipso facto reduce his chartering fees. In addition, the buoyage system has been improved including for night navigation for the past 5 years. RVM proposed a 26-foot draft for more than 15 months starting in 2005, but over this period, available statistics show that only 4% of ships were able to take advantage of this draft. RVM points out that since the opening of the navigation route in the South axis in 2005, there has been decreasing at Pointe Noire of cargo intended for Matadi.

[13] Please note that the basic rate was increased to 2 % in September 2009.

[14] The corresponding data for 2006 and 2007 were 52 and 65 percent. The wage cost per employee was $9100 in 2006, but $18700 in 2008. It should be noted that the "wage cost per person" should not be equated with average individual wage.

[15] OGEFREM emphasizes that the 1.8% fee for the freight paid is negotiated in the membership contract between OGEFREM, the national manager of the freight generated by the Congolese economy and the vessels operating in Congolese waters

[16] OGEFREM notes that the 0.59% fee covers the full package of quantifiable and non-quantifiable services. This fee is paid by the shipperss to DGDA who receives it on OGEFREM's behalf.

moreover legal and universal. According to OGEFREM the freight rate charged by ship owners was reduced through its regulation but we did not have the opportunity to see it demonstrated[17]. This should be clarified and it is necessary to prove that OGEFREM charges the freight rate when calculating its invoice. It is estimated that OGEFREM's annual turnover was around US$23 million in 2008.

3.27 CMDC is the national shipping company. As such and according to the Law 74-014, it has exclusive sea transportation rights for export and import, with the right to retrocede to other shipping companies operating in DRC. This system introduced compulsory payment -by other shipping companies and against their will- of a retrocession fee of US$2 per ton on 40% of transported freight (the 40% corresponding to the 40% of the traffic coming to Congo, according to the code of conduct of Maritime Conferences which is now obsolete. The compulsory payment of this fee was questioned by foreign ship owners, but the Supreme Court rejected their request on the grounds of late submission of the petition. The Prime Minister's Office ordered that all shipowners using Congolese ports abide by the laws. There is no justification for cross-subsidizing a particular shipping company through fees collected from other sister companies. Total annual revenue from the fees paid to CMDC is estimated at US$ 1.6 million based on an annual tonnage of two million tons through the port of Matadi. Navigation charges account for only 0,2% of the freight handled by both exporting and importing countries.

3.28 DGDA charges two administrative fees. One (i) 5%, in the case of total exemption and (ii) 1% in all other cases. In the second case, reviewed here, the proceeds of the fees are divided as follows: 0.25% for DGDA and 0.75% for AUFS (African Union Financial Services) which provides technical assistance to DGDA by installing a national communication network exclusively for the Office and scanners for the main customs offices which are not yet operational. It is estimated that the total annual amount of the revenue from these fees was at least US$24 million for 2009, including about US$18 million for AUFS and US$6 million for DGDA.[18] It was not possible to collect information on how AUFS used these resources. The 0.25% collected by DGDA complements the budgetary retrocession it receives annually from the Ministry of Finance which amounts to 5% of the revenue actually received.[19]

3.29 The Industrial Promotion Fund receives a subsidy of 2% of the import CIF value plus import duties, with the exception of certain duty free raw materials and consumer goods. In 2008, the total amount of import resources was estimated at US$ 20 million, an amount that has not been confirmed.

Exports

3.30 A similar work was undertaken for exports and it helped highlight the structure of FOB fees. The work focused on the analysis of a forest product exports file. Generally, export costs vary according to the type of product, its geographical origin, its mode of transportation all the way to Matadi and the export tax that may be applied to the product.

[17] OGEFREM stresses that it contributes to decreased market prices, and references the period between 1983 and 1990 when during one of its freight rate negotiating missions, OGEFREM, through direct negotiations with shipowners or negotiations under the umbrella of the UCCA, helped achieve an overall positive impact on the national economy. OGEFREM notes that these negotiations generated projected savings of more than 2.3 billion Belgian Francs for the Republic of Zaire.

[18] Data from OFIDA are for 2009 ; no data were available for 2008

[19] It should be noted that OFIDA was reintegrated in the Ministry of Finance at the beginning of 2010, which implies the suppression of its funding through retrocession.

3.31 Like for imports, the main FOB fees correspond to transportation and transit costs. Fees linked to OCC are lower than for imports and this also seems to be the case for OGEFREM. In fact, just like for imports, OGEFREM charges 1.8% of the freight value but the fee on the FOB value of exports was apparently suspended a few years ago. All foreign ship owners are supposed to pay a retrocession fee of US$0.80 per MT to CMDC. Exporters do not see these fees, since they are charged to the ship owner or his sea agent. However those fees are real and affect export costs of sea freight.

3.32 The fees charged by OCC (between 1% and 1.2% of the cargo value, depending on the product) are not a substantial part of the fees. But exporters consider that the administrative weight of interventions is heavy, even if it cannot be easily quantified. OCC is responsible for the quality control of exported goods (especially by taking samples and conducting laboratory analyses). In addition, OCC agents are always present when containers are sealed; they conduct a final inspection of the sealed container and of the required documents before the cargo is loaded on board the ship. Furthermore, some of the fees charged by OCC must be paid directly to OCC and not through the Single Window. There is often overlap between OCC inspections and inspection activities undertaken by other institutions, for example (i) for coffee exports, the Office National de Café (ONC-National Coffee Office) ; (ii) for minerals, through the participation of the CEEC and private laboratories; and (iii) for timber, through the Ministry of Agriculture, which delivers phytosanitary certificates.

Observations on procedures

3.33 As regards imports, it is expedient to make an analysis of (i) the ship side and (ii) the shippers'side should be conducted. On the ship side, it was noticed that the right to regularly call at Matadi was subject to a "membership contract" between the ship owner and OGEFREM (representing the Ministry of Transportation). According to the OGEFREM, the solution could be found in the introduction of a Single Integrated Window.

3.34 3.34On the shippers side, with the exception of the importers themselves, the key actors involved in the transactions are : (i) commercial banks and BCC ; (ii) OGEFREM ; (iii) OCC and BIVAC ; (iv) ONATRA ; (v) DGDA ; and (vi) carriers (road, river and sea, railway). On the export side, there may also be an intervention by provincial authorities. There is no direct intervention at the import and export level, by Ministries (Trade, Finance and Transportation), the Central Bank or the Industrial Promotion Fund.

3.35 Operators have criticized the institutions directly involved in the procedures including OCC, OGEFREM, the Customs Administration and the Port of Matadi. Their procedures are viewed as ineffective and slow and often overlapping. (See Annex for a description of customs procedures). Most documents are not aligned with international standards. There are relatively few complaints against commercial banks and BCC.

3.36 These procedures result in relatively extended call at the port of Matadi, mostly for containers. Table 5 presents a few key statistics for container movements by a key importer over three months. For imports, the average call time is between 30 and 33 days, with a minimum of 3 days, a maximum of 84 days and a mode of 29 days. Figure 19 shows a distribution of the time in weeks and confirms for most of the containers (70%) a duration of 3 to 5 weeks. Several reasons may explain why it takes so long including the fact that importers start customs clearance procedures late and that all containers arriving at the port must be inspected by DGDA and/or OCC. The duration of stay is comparatively much longer than in other ports. For example, the average duration is between 15 and 20 days in Mombasa and 3 days in Madagascar with very few containers remaining beyond a week.

Table 5: Port time at the the port of Matadi for containers (imports, exports, and total stay)

Number of days	For Imports	For Exports	Total Stay
Minimum	3	0	22
Simple average	42	28	58
Weighted average	30	11.4	67
Median	32-33	8-9	70-71
Maximum	84	56	95
Mode	29	0	79/95
Frequency Mode	58	75	84

3.37 On the export side, Table 5 shows that the port time for containers to be exported varies between a minimum of zero day (in and out the same day) and a maximum of 56 days, with a weighted average of 11.4 days and a median between 8 and 9 days. The mode is zero with a frequency of 75 containers (out of a total of 574 containers for which statistics have been recorded). Figure 20 gives a broader "vision" for a sample of 576 containers, including 317 (55.2%) staying at the port less than a week (i.e. between 0 and 6 days) and 69.2% staying less than 2 weeks etc. It is important to stress that the data concern the duration of stay of containers and not the duration of containers loaded with goods. However, it is obvious that for exports the duration is shorter than for imports since nobody would want to delay the departure of containers to be exported. It would be however useful to know why the process sometimes takes more than a week.

Figure 19: Port time for containers to be imported (in weeks)

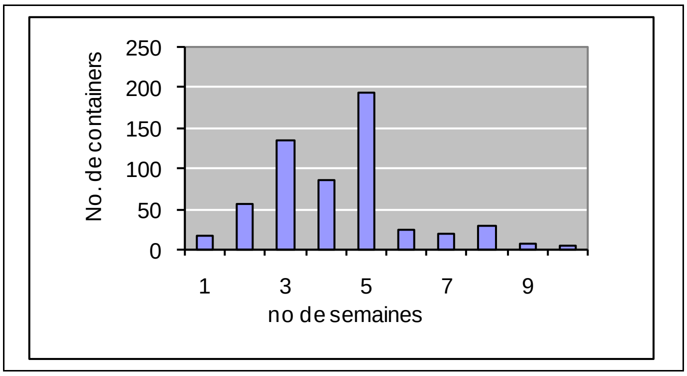
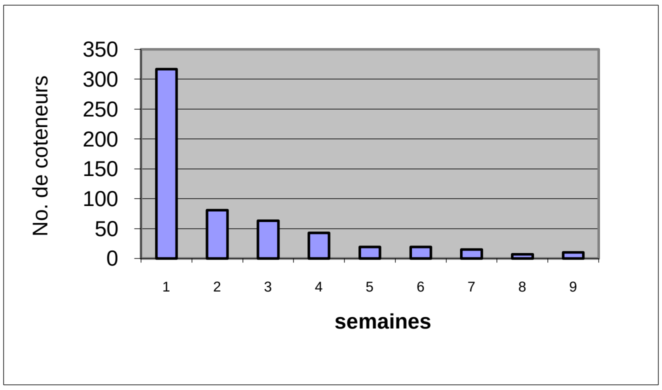
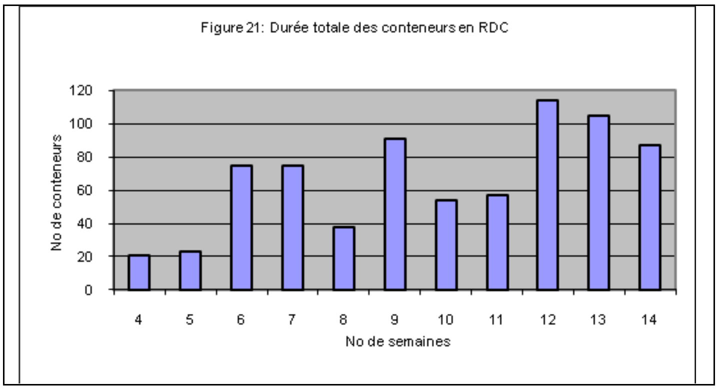


Figure 20: Port time for containers to be exported (in weeks)



3.38 The information in Figure 21 highlights the data on total port time at the port of Matadi between initial unloading and re-export of containers. According to Table 5, the average duration is between 65 and 70 days, or 9 to 10 weeks, with a minimum of 22 days and a maximum of 95 days at least. Matadi is the main entry port for goods going to the Bas Congo, Kinshasa and other regions of the country which can be reached from Kinshasa (especially by river). It should be remembered that the total port time is the sum of three elements: (i) the duration of containers at the port of Matadi at the time of import; (ii) the time between their departure from the port of Matadi and their return to the Port after transporting goods to the interior of the country; and (iii) the duration of stay at the Port of Matadi before being reloaded for export

Figure 21: Total port time for containers in the DRC



3.39 For both imports and exports, Figure 21 gives a broader "view" of the distribution over time measured in weeks. It shows that the minimum duration is 4 weeks, the median 10 weeks and that 25% of the containers stay beyond 12 weeks or 3 months. These are long periods that probably result in high warehousing costs for those using containers. Operators wish that solutions be found to reduce the duration of stays. As indicated earlier, border delays are much longer than in other countries, even on the African continent.

3.2.2 The South Corridor

Imports

3.40 Imports, via the south and the two main entry points, Sakania for goods transported by rail and Kasumbalesa for imports by road, are subject to the same laws and regulations applied in the DRC. The chain of players and the costs are different for imports through the South using road and rail services because the taxable amount for goods coming from overseas is increased by the costs of transportation and transit from the unloading port in South Africa and the East to the customs clearance point in Katanga. As a result of the high costs of road transportation, the product cleared from the customs arriving in Lubumbashi are 3.82 times higher than the FOB price while the corresponding multiplier was approximately 3.2 in the Matadi-Kinshasa corridor.

3.41 Transportation from Durban is generally done by road due to permanent availability of transportation means, the condition of road infrastructure and easy access to a return freight from Zambia. On the other hand, few transactions are made by rail. While rail transportation to the Congolese border can be relatively efficient, SNCC cannot do its part since it does not have enough locomotives, thereby immobilizing cars and goods for long weeks and losing the specific benefits offered by rail transportation.

3.42 Road transportation in the inland part of the Congo also poses problems due to the state of the road infrastructure, its limited capacity and in particular the bridges between Lubumbashi and Kolwezi. Some international carriers refuse to go up as far as Kolwezi, preferring not to take the risk of damaging their vehicles and immobilizing them for a long period. In addition, there is another problem: the “transportation insurance” for the Congolese part of the journey must necessary be taken with the national insurance company “SONAS” that has a monopoly. But its insurance policies and its indemnity payment capacity are considered totally inadequate by carriers. To overcome this problem, they need to take insurance outside the DRC to back the policy issued by SONAS, thus incurring substantial additional costs.

3.43 Importers from the South have criticized the institutions and the procedures just like their colleagues in the Matadi-Kinshasa corridor. Services provided by institutions such as OCC, OGEFREM and other public services on the field are viewed as costly and without corresponding benefits in the form of additional service or added value.

3.44 As regards procedures, however, the fact that there is no bulk breaking at the crossing points at the entry of the country (Kasumbalesa and Sakania) is appreciated by operators. However, they are concerned about the increasing amounts paid to all the services set up alongside the roads taken by trucks between the border and the final destination (Lubumbashi, Likasi or Kolwezi). The transfer of trucks and wagons loaded with imported goods, from the border to the customs clearance warehouse near the importer is done without delay, as soon as the basic documents are submitted by the forwarding agent.20 But, according to forwarding agents, Customs requires that a declaration be made for each transportation vehicle (thus for a batch of 1000 T arriving on 30 trucks there will be 30 customs declarations). This results in many fixed costs (direct, indirect and implementation of minima) associated with the declaration process. The administrative and operational cost of each file is estimated at US$700 in addition to duties and taxes to be paid.21

3.45 The customs clearance process is too long. Despite the establishment of the single window, it takes on average 4 to 5 working days to close a customs file when all the requested documents have been presented. Many importers use the emergency collection procedure to reduce the duration of stay for trucks and minimize the risks of additional costs in managing transportation.

3.46 Concerning transportation, road transportation costs from the ports of Dar es Salaam and Durban to Katanga are a determining factor in import costs. Very high transportation rates to the DRC are the result of (i) the long distance between Dar es Salaam or Durban and Katanga, (ii) the difficulty of managing a truck fleet which will go through many border posts but also (ii) the “Congo” risk which translates into waiting time and unexpected interruptions which are not easy to manage during the stay in the DRC. To date, no official data is available on the average time spent in DRC by trucks belonging to international fleets, but it is estimated that the average duration of stay in DRC is around 15 days, all trucks included, i.e. between 1/3 and half the average time for a round trip from Durban or Dar Es Salaam (36 days) for modern fleets receiving assistance and support throughout the journey.

3.47 Long waiting time is due not only to specific actions by public agencies but also to an overall disorganization which affects both private and public economic operators. Trucks often wait 5 days before loading batches to be exported for lack of documentation or because of poor planning by mining operators. A truck that is immobilized costs $350/day.

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[20] This transfer system may be favorably applied to goods going through Matadi that will clear through customs in Kinshasa
[21] These amounts are collected by Import and Export directorates

3.48 A detailed description of the procedures shows the need to allocate informal payments in the amount of US$ 700-800 per file, in addition to formal fees paid to various state bodies to facilitate the crossing of the border. Several different issues were raised.

3.49 To open a file

- Excessive duration of the procedure to obtain Attestations of Verification (AV) from BIVAC particularly in SADCC countries or in other countries where BIVAC is not represented;
- Obsolete procedures for declarations/import licenses, only possible on paper and limited, until recently, to only one operation, while the opening of globalized declarations is desirable and technically possible ;

3.50 The transportation sector and carriers are not organized, in particular

- Drivers without proper documents;
- Use of unreliable carriers;
- Insurance, toll roads, and traffic regulations;

3.51 When crossing the border:

- Traffic jams in Kasumbalesa;
- Limited dialogue between Zambian and Congolese customs;
- Lack of authority in the *No man's land* between the Zambian checkpoint and the Congolese checkpoint;
- 11 to 12 customs clearance services while texts relating to customs limit their number to 4;
- Unjustified and worthless intervention by OCC in customs clearance operations, particularly those for which an AV has been issued;
- Non deterrent fines for customs clearance operations without previously obtaining an AV;
- Additional unjustified controls within the county particularly in Kisanga.

3.52 Operators believe that the following activities may help improve the situation.

- Create a collective think-tank group, with the participation of the public and private sector, mandated to suggest procedural reforms binding on all the actors.
- Modernize and simplify all the procedure chain, including obtaining licenses and making import declarations.
- Review and reduce the role of OCC in import transactions in order to eliminate overlapping with OFIDA's procedures, at least for imports with FOB value exceeding US$2500.
- Implement without delay the COMESA and SADCC documentation requirements.
- Create and regularly follow up performance indicators.

Exports

3.53 The bulk of Katanga's is minerals, including copper, cobalt and their derivatives. They are exported worldwide. The preferred transportation means for exporters is by rail, then by ship in Durban. However, this transportation chain did not give full satisfaction: the duration of trip is too long, 60 to 65 days, SNCC numerous management problems, particularly the lack of locomotives. Financial costs are high for operators since the payment of their goods is done only after the loading process in Durban. Given these problems, attempts were made to export by road but this was only possible with limited quantities, and unit costs were higher than those incurred by rail. It seems difficult to design a system to export mineral products in great quantities only by road. Rail services are critical and there is an urgent need to massively invest in the rehabilitation of rail infrastructure.

3.54 As regards institutions and procedures, the following have been noted. Constraints are the same in the import and export sectors. There are also issues resulting from the controls undertaken by the Ministry of Mining and the Province of Katanga, and a customs inspection in Kisanga. Exporters stress a number of issues including (i) the extended time to load the trucks on the mining site due to the absence of the agents of the Ministry of Mining and of OCC, whose presence is however required; (ii) a compulsory analysis conducted by CEEC, which nonetheless is not justified; (iii) the collection by OCC of US$300 per loading unit to take samples that it is supposed to analyze, while, in most cases, it just uses the analysis undertaken by the private laboratory approved by the operator and its customer; (iv) compulsory passage through the Ministry of Mining for follow up statistics on exports, while the same information may be conveyed to the Ministry by OFIDA and/or OCC. In addition exporters question the relevance of inspection activities conducted by the Ministry of Mining, OFIDA and CCR in Kisanga, and the allegedly unjustified inspection of export documents by the Province. It also would be necessary to reduce or eliminate overlapping of inspection activities undertaken by OFIDA, OCC, ANR, the Mining Police, DGM, etc in Kasumbalesa. Lastly exporters question the need to make informal facilitation payment at all stages.

3.55 Exports by rail face, though to a lesser extent, the same problems, given the isolation of the railroad South of Lubumbashi and its low attraction for all public services. Transit time is extended due to lack of locomotives; this explains why 80% of exports are made by road. The total duration of transit to the shipping port is longer, 65 versus 35 days by road.

3.56 In short, the export process is a succession of unjustified stages, double registration and control of the same information with the various administrations. While well prepared and sequenced administrative and customs formalities should not take more than a day, the multiplication of compulsory administrative passing through leads to a loss of time estimated at 4 or 5 days. Trucks and wagons are immobilized with an average cost of US $250 per day to which cargo security must be added in the amount of US $5 per day, i.e. a total of US$255 per day or US$1020 to US$1275 for 4 to 5 days.

3.57 The following example illustrates the high costs (excluding transportation and security charges) of the export process for a batch of 31 tons of cathodic cooper (with a value of US$ 4500 per ton), totaling US$139500.

Table 6: Charges incurred during exports

Export tax 1% market price value	1395
OCC fees	315
External Trader	50
Provincial Taxes	930
Sidonia Customs documents	45
Administrative and Operational Costs	420
Facilitation Fees	600
Fees for Customs Agency	238
Turnover Tax	20
Total	4013 or 2.88% of total value

3.58 There is also an amount of US$1275 for the cost of immobilized trucks and wagons, i.e. about US$5288, or 3.79% of the total. What is striking is the high level of fees which may be classified as expenses linked to facilitation activities (Administrative and Operational Costs, Facilitation Costs).

3.59 According to exporters, the Mining Code provides that import taxes and administrative levies should not exceed 1% of the market price list. But the above example proves that there is no compliance with this rule essentially because of OCC fees, provincial taxes and Turnover taxes (ICA). Exporters note that the many additional fees imposed by various public services in export procedures, in addition to informal facilitation costs for the handling of files are particularly costly. Such procedures can be found in other instances.

3.60 Exporters also state that there are a number of practical measures that could be taken to improve the situation including (i) reducing the number of stages and actors in the export process (ii) clearing the access and the crossing point in Kasumbelesa; (iii) pursuing customs reforms, in particular the pilot experience of "home customs clearance"; (iv) reducing legal uncertainty; and (V) promoting exports by rail services.

3.61 The number of stages in the export process may be reduced (i) by eliminating inspections in Kisanga; (ii) by limiting the number of authorized services in export procedures to those which are strictly necessary, be it OFIDA, the Ministry of Mining and the province; and (iii) by reserving the inspection of batches for the opening of export licenses for OCC which would intervene only at the stage before loading the truck.

3.62 Transactions in Kasumbalesa may be improved: (i) by removing the trucks and goods congesting the "No man's land" between the Congolese and Zambian borders; (ii) by entrusting OFIDA with export inspections; (iii) by allowing export movements throughout the day; and (iv) by implementing the documentation system provided for in SADCC agreements. Regarding customs reforms, OFIDA should pursue the pilot experience of "home customs clearance" for a big mining company with all the features necessary for this type of transaction both for imports and exports. The other actors in the import/export process particularly OCC for quality control and BCC for export and import licensing, should upgrade and streamline their procedures. Many operators indicate that legal uncertainty is a major obstacle to trade development. It is a key issue that needs to be addressed as a matter of urgency at the highest levels of the Government hierarchy.

3.2.3 **The East Corridor**

3.63 The Eastern provinces are subject to the same laws, regulations and practices on international transaction as the rest of the country : obtaining import and export licenses, BIVAC pre-shipment inspection, OCC control, etc. are among the steps to be taken in the import and export process. However, the geographical features of the region, its proximity to COMESA countries and the political background over the past 20 years have greatly affected the way business is done. The economic, social and cultural, and especially agricultural environment has an impact on the market and local trade practices. Every administrative constraint is viewed as an obstacle to trade. Lastly the prevailing insecurity affects mentalities.

3.64 Because of all these factors, the East developed unique features in relation to the rest of the country. Consequently, administrative and quantitative data on trade flows lacks precision and is uncertain in many respects.

Imports

3.65 The findings and observations described in the previous chapter on actors in the import chain from the port of Matadi and via the South also apply to imports via the East. The cost structure is quite similar to the costs recorded for imports via the South. Transportation conditions are identical for goods coming from overseas and distances to the landing ports on the African continent are the same. There is no competition for road transportation since there is no railroad to the Eastern part of the DRC. A combination of rail services to Kasese in Uganda and road is available but it is no longer favored by economic operators. .

3.66 However there are noticeable differences. Border delays for customs clearance at the port of entry in DRC vary all along the border with Uganda, Rwanda, Burundi and Tanzania. It often takes seven to ten days in the far north while it just requires 2 or 4 days in Goma and Bukavu. Trucks rarely stay long in the DRC because the availability of return freight is very limited. Only 7000 tons of coffee is available for export in the Beni/Butembo region, 1000 tons in Goma and a few batches of cinchona and tea are annually exported from Bukavu.

3.67 Road transportation remains burdensome. The freight rate for exporting 10 000 t of foodstuffs in bags, a common example used for the three import channels, is similar to the Durban/Lubumbashi rate of US$220 at 225/t. Just as for the South, road freight rates from coastal ports to the DRC are taken into account when determining the CIF value of the goods and they affect all duties, taxes, excise tax, fees calculations, and the services provided by public entities involved in the inspection and monitoring of international transactions. The multiplier from the FOB rate to the landed rate in the East is estimated at 4, like in the South.

3.68 It seems that the percentage of international operations covered by BIVAC pre- shipment inspection documents is less than 10% (1% in Bukavu). The percentage remains very low even though these estimates conceal the fact that the greatest values imported to the East are attributable to tax exempt organizations and not subject to the BIVAC system, particularly NGOs.

3.69 Several reasons may be cited: (i) late setting up of the BIVAC office in the area; (ii) limited representation of the Veritas operator in the sub-region's countries including Kenya, Uganda and Burundi; (iii) insufficient explanation given to traders who are not very receptive to regulations; (iv) bad habits acquired -when the central Government was not involved- for setting the value of imported goods. It seems that standard values per truck were used for years and it is now difficult to introduce a new formula.

3.70 In addition, external supply markets can be very close (Kenya, Uganda, Rwanda, Burundi). But the pre-shipment inspection procedures (BIVAC) recommended by the authorities are too long, 15-21 days, to develop efficient local trade. The journey between those countries and the consumer cities in Eastern DRC takes 3 to 5 days. Whatever the case may be, the system is making no headway and due to lack of BIVAC documents, the value has to be negotiated when the goods are presented for export and attempts to make arrangement to avoid the fines prescribed by the law for failing to present AVI are repeatedly made. Whatever the circumstances, the low percentage of goods complying with the pre-shipment inspection system creates a border transaction market and an unsound self-sustaining negotiation area.

3.71 OFIDA has not yet initiated the implementation of the ASYCUDA/SIDONIA system and the Single Window procedure in its offices located in Eastern DRC. The whole registration process for customs files is still carried out manually. This is detrimental to the customs process, the calculation of the customs value, the production of management data, the conduct of an improved analysis of the types of files, the revenue generated and the real flows of goods by point of passage and the conduct of a management audit.

3.72 There are no reliable statistics. Only 10% of the import files paying duties and taxes are believed to start with an import license. The average customs clearance time on truck after crossing the border is estimated at 4 and 7 days for exports. Facilitation fees for exports and imports account for 15% of the total clearance fees. The import duties are based on a CIF value which is on average US$300 more per ton than in Matadi. The figure of US$300 represents the cost of transport from East African ports to Congo.

Exports

3.73 Before the war period that started in Eastern DRC in 1996, the region's activity was primarily based on the export market: (i) minerals (gold, tin, coltin, cassiterite) and tropical products (coffee, tea, cinchona, papain, wood). However, the production of goods likely to be exported significantly decreased due to population displacement and insecurity on the farms. The export potential (through official channels and parallel channels) now only represents a quarter of the tonnage recorded prior to the war.

3.74 Products which can be sold or exported now face a difficult choice: either (i) sell the products in bordering countries (Uganda, Rwanda and Burundi) by using local trade facilities; or (ii) using the official export channel, and face restrictive procedures (several public services, sometimes up to 12); pay taxes for documents with no added value and have to pay taxes and export duties which may be estimated at 12% of the product's value.

3.75 The Eastern region seems to be divided on how to do business and only companies in the formal sector use official procedures that are common throughout the country. The scope of these transactions remains very limited.

3.76 Export professionals know export procedures very well. The real challenge is more about producing marketable goods, to be able to buy inputs at a reasonable price and be able to transport the goods to African ports at a reasonable rate compared to global prices. Transportation means are available but very costly and any initiative likely to reduce export logistic costs will help increase commodity prices (coffee, minerals, cinchona) for primary producers and will encourage farmers to develop their production.

3.77 All these factors helped the East develop unique features compared to the rest of the country that affect the administrative and quantitative follow up of trade flows that are quite unclear. Therefore, a situation and solution approach should be envisaged.

3.3 INSTITUTIONAL ANALYSIS

3.3.1 Introduction

3.78 This section gives an analysis of the external trade operations and procedures in the Matadi Kinshasa corridor, from the point of view of key institutions or groups of institutions. The latter are directly or indirectly involved in the process of moving freight across the border and clearing it through customs. They are in principle to be financed by fees on the CIF value (plus import duties sometimes). Institutions directly involved in or affecting the border crossing/customs clearance process are (i) BCC and commercial banks ; (ii) the Ministry in charge of External Trade ; (iii) OGEFREM and incidentally CMDC; (iv) ONATRA, RVM, RVF, Port of Matadi, CFMK, SNCC); (vi) OCC; and (vii) BIVAC. Institutions financed by import and export operations, without any interference in customs procedures are (i) DGRAD; (ii) FPI; (iii) AUFS, and (iv) CTC. Institutions are presented in a sequence that corresponds to an import operation.

3.3.2 BCC and commercial banks

3.79 The role of BCC and commercial banks is limited to making available and managing documents such as licenses/declarations required for both imports and exports as part of foreign exchange regulations which is within the competence of BCC. Foreign exchange regulations also stipulate that imported or exported good must be inspected before loading by the Congolese Control

Office or its representative. Moreover, BCC receives a control fee of 2 for every thousand of all payments to or from abroad. The total amount of fees for 2008 was US$20 million (source BCC). Procedures relating to the issuance and management of licenses and declarations may be streamlined and especially computerized to help produce usable statistics and subsequent cross-checking with other databases of international transactions. Documents should also be aligned to applicable international standards.

3.3.3 Ministry of External Trade

3.80 The Ministry of External Trade intervenes at various levels of external trade operations: (i) it levies annual taxes paid by importers and exporters as excise tax; and (ii) it perceives fees on documents used for each export and import. It was not possible to put a figure to the Ministry's revenue that is collected by OFIDA at the Single Window, in the case of Matadi, for the DGRAD which pays it back to the Ministry in charge of Trade. The usefulness of these practices should be reviewed.

3.3.4 OGEFREM

3.81 OGEFREM was created in 1980 as part of the 1973 Trade Law, the 1975 Abidjan Charter and the 1983 Code of Conduct of Maritime Conferences.[22] Its missions included (i) protecting the *Compagnie Maritime* Nationale (CMZ now CMDC), through cargo distribution ; (ii) regulating and controlling the freight rates paid by Congolese shippers ; (iii) seeking to improve the regional shipping, in cooperation with the Shippers' Council and other organizations ; (iv) seeking to streamline maritime administrative and legal formalities ; and (vi) defending and representing the interests of shippers.

3.82 OGEFREM financially contributes to exports and imports by (i) charging fees on sea freight, FOB value of exported goods and CIF value of imported goods (ii) requiring importers to obtain an Electronic Import Information Form (FERI- a system introduced in 2005) for a fee; (iii) requiring ship-owners, as requested by the Transport Administration, to sign a membership contract to obtain the right to call at Matadi[23]; lastly through (iv) Agency contract to forwarding agents.

3.83 For each import procedure the following fees must be paid : (i) 1.8% of the freight value as invoiced by the ship owner ; (ii) 0.59% of the CIF value (i.e. 0.50%, plus 18 % for CCA) ; and (iii) fees charged for the Electronic Import Information Form as follows:

Table 7: Container costs

Origin	20-foot container	40 foot container	Conventional
Outside EU	50€/BL+60€/container	50€/BL+110€/container	50€/BL 0,50-4,0€/TM
UE	50€/BL+50€/container	50€/BL+110€/container	50€/BL 0,50-4,0€/TM

The cost of FERI seems very high amounting for example to €5000 for the import of 10 000 ton of bulk rice (€0.50 per ton). For a 20-foot container, the cost of FERI would be at least €2.5 per ton (€5 per ton including BL) assuming that the container contains 20 tons of goods. On this basis, the costs of FERIs for 10000 tons of imported goods in container would be €25000.

[22] The code of conduct sought to regulate the agreements between shipowning members of the conferences and to ensure freight distribution among shipowning members of the conferences of both signatory countries in 40-40-20 proportions (40% for shipowners of each country and 20% for those of third country).

[23] The membership contract is a tool designed by OGEFREM to accomplish the tasks assigned to it by the law that created it as part of its permanent negotiations and consultations with shipowners.

3.84 In 2008, OGEFREM's total turnover was around FC13 billion, or US$23 million. This institution had about 400 employees.

3.85 Each ship-owner must take out a membership contract with OGEFREM, which defines the conditions governing call at Matadi in terms of frequency, freight rate applied, etc. It should be particularly noted that the requirement by the Ministry of Transportation for each ship owner to pay a fee (called retrocession fee) of $0.80 per ton transported to CMDC, is equivalent to US$2 per ton applied to 40% of the freight that must be paid to CMDC as part of the Code of Conduct 40-40-20, while this code, which is now obsolete, was questioned by some of the signatories and partners of DRC.

3.86 Moreover, in December 2009, OGEFREM became the Office de Gestion du Fret Multimodal, with a substantial expansion of its activities on the domestic market, including the creation of a freight exchange market, internal and external transportation rate regulation and the construction of an extensive network of dry ports with compulsory passage in certain cases. According to its new articles of association, its mission would be to manage the "freight load throughout the whole economy". To this end, it plans to introduce an Electronic Export Information Form (FERE). At the external level OGEFREM is trying to extend its representations abroad in order to impose the production of a FERI on all imports, that is to say not only those totally imported by sea at Matadi, but also those imported from ports in Kenya, Tanzania and South Africa. In addition, it is now required to take out an Attestation of Destination to cover the section between the port of loading in Africa and the final port of customs clearance in DRC. If the FERI was not taken out in the port of departure, it is necessary to obtain it upon arrival for a penalty of about 100% (case of containers). OGEFREM points out that the administration of the certificate of final destination is necessary, given that the DRC is 85% landlocked, and calls for appropriate mechanisms to deal with this reality.

3.87 The relevance of OGEFREM's activities is strongly questioned by sea agents, shipping agents and shippers. In their opinion, fees collected by OGEFREM are similar to taxes without service counterpart. Attempts by OGEFREM to control (by reducing them) freight rates are useless, all the more since OGEFREM may increase freight rates during the inspection conducted on its behalf by OCC during customs clearance. FERI whose goal would be to effectively monitor cargo on behalf of importers is of no use since the follow up can be done directly through electronic programs developed by forwarding agents and sea agents24. Operators also expressed reservation about the transformation of OGEFREM into the Office de Gestion de Fret Multimodal, particularly on the issue of the regulation of freight rate on the domestic market and the construction of local dry ports. The retrocession fee of US$0.80 for CMDC has no economic basis. However, OGEFREM notes that following the modification made to the system, it is the exporter or the foreign provider who pays the FERI and that the argument that this levy falls on the importer is unfounded in light of the law on single pricing on the international market where the Congolese market is an import and export price-taker.

3.88 It would be advisable to review OGEFREM's costs and benefits, its levies including corresponding fees and its inspections, by undertaking a political and economic analysis of its current activities and its transformation into the *Office de Gestion de Fret Multimodal* and the introduction of the FERI and FERE. This analysis should explicitly determine if OGEFREM's mandates and mode of operation and the corresponding fees are always justified and reasonably

[24] OGEFREM points out that FERI is both a tool for facilitating trade and for regulation which helps to : rationalize real time freight management ; anticipate handling operations by all parties before the goods arrive ; comply with ISPS code ; participate in simplifying procedures ; contribute to promoting international trade by exchanging relevant information on the price of various goods ; contribute to the development of the National Transport Observatory, which is indispensable for the DRC and the West and Central Africa sub-region; rationalize services at Congolese sea ports.

correspond to the value of the services provided to ship owners and shippers, in accordance with the provision of Article VIII of the GATT General Agreement. The same goes for specific documents such FERIs and FEREs which collects information already recorded upstream in the follow up and inspection chain[25]. In addition, if the Office wants to effectively promote the interest of the private sector shippers, it would be good to have the latter effectively represented within the administration and management Council[26]. Currently, the Council and the Directorate are dominated by public sector representatives. The same type of cost/benefit analysis may also be conducted on the retrocession fee charged to ship owners and collected by CMDC.

3.3.5 **ONATRA and other transport companies**

3.89 ONATRA, RVM, RVF, the port of Matadi and CFMK, are the main operators engaged in the transportation of goods right up to port of Matadi where the goods are cleared through the customs for onward transportation to Kinshasa either by road or railway. The goods are subsequently transported by inland waterway to the hinterland. The discussion in this section will focus on (i) RVM; (ii) port of Matadi; and (iii) RVF. On the contrary, issues inherent in transportation by railway (CFMK) are not addressed.

3.90 It has already noted that (i) RVM fees and the tariff of port of Matadi seem to be very high with no equivalent services rendered in return; and (ii) the fact was attributable to a combination of factors, namely, the exorbitant cost of staff partly due to over-staffing, with some employees who have reached retirement age still on the payroll; decrepit equipment for operational and financial management. This section examines those issues in more detail, relying mainly on the three COPIREP Reports issued between 2006 and 2007 on the reorganisation of RVM, ONATRA (port of Matadi) and RVF, (hereinafter called “COPIREP Report”).

Maritime Navigation Board (Regie des Voies Maritimes)

3.91 According to the « COPIREP Report» RVM is not in a position to achieve the set economic and operational objectives, namely: (i) maintaining the depth of the fairway at a minimum of 26 feet during 10 months of the year; (ii) assuring low-cost dredging; and (iii) collecting navigation and piloting dues. For 15 years, the depth has generally been between 19 to 21 feet, sometimes exceeding 23 feet but only once it reached 26 feet in 2006, with the help of an external technical partner. Moreover, the hydrography (depth measurement) is not efficiently carried out and the decrepitude of navigational aids (buoyage system) prevents ships from sailing at night. Most international container ships stop in Pointe Noire for transhipment into shallow draught boats capable of sailing up the river. This combination of factors increases the cost, time and the call time at the port of Matadi.

3.92 The main factors explaining that state of affairs are the cost of labour, the condition of the equipment, the management and financial situation of the Board.

3.93 Regarding the staffing strength of the Board, 1058 employees are on contracts for an undetermined duration, with a plethora of supervisory staff as compared to technical staff (ratio of 1 to 2, as against the usual standard of 1 to 6 or 7). This is further compounded by the very high percentage of staff working in the offices in Kinshasa, Matadi and Boma. The average age of employees is 48 years. The level of training is inadequate and employees cannot meet the requirements of state-of-the-art technology. The average salary of US$4500/per year is among the highest paid by public corporations in the country. The Board resorts excessively, and unjustifiably, to temporary staff. The payroll represents 40 to 50% of the turnover.

[25] OGEFREM notes that the FERE could be the answer to the demands of the international community and the European Union for origination certification, for example for timber or coltan.

[26] OGEFREM advises that Article 20 of the law defining the statute of OGEFREM, should create two National Committees, including for transport, with shippers' membership.

3.94 Concerning the technical follow-up of the fairway, the cubic capacity dredged is only 47% of the targeted volume; the level of the fairway (20-22 feet) is by far lower than the level desired by ship owners (26 feet). No proper sounding has been taken of the fairway. More navigational aids (bouoys, bollards, beacons, and lighthouses) have been available for some years now, but there is still a lack of navigational aids to facilitate navigation at night. This predicament is attributable due to the decrepitude of equipment due to chronic lack of maintenance and rehabilitation over the past decade. This situation leads to violent protests by ship-owners and shipping agents.

3.95 To remedy the situation, it is imperative for RVM to: (i) dredge 26 feet; (ii) maintain that level during 10 months of the year; and (iii) ensure effective availability of navigational aids at all times. In order to dredge the fairway to a depth of 26 feet at a reasonable cost, RVM would have to rent more powerful dredgers to be able to reduce the current operating costs of $US6.36 per cubic metre to the international standard of $US 3.85/cubic meter. But it appears that would be difficult given the disastrous financial situation of the company: net negative situation, negative capital yield; negative working fund; liquidity ratio of 30%; cash ratio of 2%. That situation is the result of several factors: (i) failure to collect a substantial part of levies during the 1997-2005 period; (ii) payroll taking up 40 to 50% of the turnover, and very high salaries; (iv) as well as poor financial and operational management, in general. For instance, RVM would continue to provide debt servicing on behalf of OGEDEP for a foreign debt that has already been reduced under the HIPC Initiative. In other words, RVM must be reorganized if it is to contribute in reducing the cost, time and risks involved in ships calling at the port of Matadi without increasing port dues above the current level.

3.96 Three urgent measures could be envisaged: (i) reducing or possibly eliminating payment to OGEDEP of debt servicing on external loans that have either been partially or totally cancelled under the HIPC Initiative; (ii) formulating and implementing a plan of action to ensure the dredging of the fairway to a depth of 26 feet and ensuring its permanent navigability[27]; (iii) preparing a social plan to reduce staff and RVM's wage bill to a reasonable dimension.

The port of Matadi

3.97 To date, the port of Matadi management is facing serious problems at all levels. The infrastructure and material are fast deteriorating; the port is finding it increasingly difficult to tranship goods. We may also add the problem of the operational draught reduced to 22 feet from 23 feet and the multiplicity of related services, notably the State, whose services affect the cost of ships calling at Matadi without any improvement in services. This analysis relies mainly on a diagnosis of the port undertaken by COPIREP in 2007 titled «COPIREP diagnosis of Port of Matadi » as well as the findings of the Facilitation mission of October, 2009.

3.98 The organisational diagnosis of ONATRA Sea Ports Department analyses its administrative organization and functioning. It is in fact a diagnosis of three ports: Matadi, Boma and Banana. The Sea Ports Department like any other ONATRA structure is under the General Directorate in Kinshasa. The decision-making process is therefore highly centralized, and has an impact on the management and functioning of the various structures of the company. For procurement decisions, for instance, the Sea Ports Department has a ceiling of US$2000; any tender in excess of that threshold must be submitted to the General Directorate for approval. Stocks run out very often, especially fuel and spare parts for machines. Delivery deadlines are most often extended through a lengthy administrative procedure required by the General Directorate. More generally, 76 per cent of the turnover corresponds to the gross margin, 95 per cent of which is transferred to Kinshasa

[27] RVM recommends that it be provided with new material means for its operations because it has adequate human capacity.

(Source: ONATRA General Directorate), to defray the numerous ONATRA expenses including wages for a horde of employees most of whom are supposed to be already superannuated.

3.99 As at December, 2006, the Sea Ports Department employed 1,986 active workers and supervisory staff distributed in the three ports of Matadi (1,702), Boma (220) and Banana (64). The work force in those ports depends on the level of activities. However, recruitment of temporary workers through employment agencies, gives the impression that there is need for staff.

3.100 An analysis of staffing by educational or vocational qualifications shows that the supervisor/staff ratio is appropriate given the technical nature of port activities. One supervisor had 5 workers under him. Functional activities are performed by 18% of the staff in the port, while 82% of the permanent staff was engaged in operational activities. That seems reasonable. But the technical supervisors were aging and the operational and maintenance staff is practically getting no vocational training to update their skills or learn new technologies. An analysis of the salaries of permanent staff over the past six months revealed that the payroll had more or less doubled since 2002, to about 2.1 billion of Congolese Francs. No mention was made of issues relating to financing either personnel already on retirement or retired staff still on the job.

3.101 Port infrastructure in Matadi includes wharves, parks, courtyards and warehouses. Generally speaking, the entire infrastructure is in an advanced state of disrepair through lack of maintenance and rehabilitation. Six out of the ten wharves are out of service, thus drastically reducing the intake capacity of the port. The port is under-equipped in machinery and equipment. The shortage of machinery and rolling stock compels the constant rotation of available equipment, thus impeding the conduct of maintenance work or any task that needs to be performed. The general poor state of the port results in rapid attrition of equipment with the attendant risk of damage and accidents. Non-rolling stock is in an advanced state of disrepair, with neither a budget for equipment and stock management nor funds for renewing hoisting equipment

3.102 The state of lift-on/lift-off systems (hoisting equipment, particularly cranes) slows the rhythm of loading and unloading, which can prolong the unloading of a ship to 10 days while the standard is just 5 days. This can lead to the payment of demurrage that could easily amount to US$ 10,000 per boat/day.

3.103 By its singular position at the end of the navigable reach of the Congo River, five major factors largely determine the efficient operation and profitability of the ONATRA Sea Ports Department: (i) navigational access to the maritime reach**;** (ii) available space; (iii) transferring goods; (iv) conditions for evacuating the goods to Kinshasa; and (v) procedures.

3.104 Since access to the port is being hampered by insufficient draught, a growing number of ship-owners have been forced to transship goods in Pointe Noire and serve Matadi by feeder**.** They therefore increase the cost of freight accordingly to cover the cost of transshipment in Pointe Noire or to compensate the additional costs generated by shipments up the river in partially loaded ships.

3.105 Efficient handling of containers in the port requires wide open spaces. However, since the port does not have sufficient space to substantially increase the volume of operations, additional open spaces could be created by partial relocation of the port, or by demolishing some warehouses or buildings.

3.106 The port of Matadi covers a limited area and is entirely hemmed in between the city and the surrounding hills. The poor technical conditions due to lack of material prolongs the average berthing time and the accumulation of administrative formalities given the huge number of operators increases the average port time for goods, especially containers.

3.107 The capacity of the route is limited to transporting just 400,000 tons /per year between Kinshasa and the port of Matadi. Today, it is more than imperative to rehabilitate the railway line (CFMK) rapidly to transform it into the choice means for transporting goods to consumer centers such as Kinshasa and to all trading zones getting supplies through the Congo River.

3.108 The said “COPIREP diagnosis” does not give a detailed description of the procedures, much less an analysis, and fails to provide figures about the average duration for completing the formalities. But, it does draw attention to serious dysfunctions in the clearance of containers through customs. The problem occurs between the time of issuing the delivery note (“*bon à enlever”*, BAE) and the final release by OFIDA, within an average 3 to 7 days port time, whereas the trucks are already loaded. An estimated 125 trucks on the average are waiting each day, unrelated to ONATRA handling procedures, and occupying 5000 m² of parking space concentrated in the most useful operational areas in the Matadi Container Terminal (MCT) mainly in front of the office, in the transfer area, in the warehouse courtyard and in the passages reserved for MCT operations.

3.109 According to the “COPIREP diagnosis” the performance rating of the Single Window[28] was positive leading to an increase in revenue and the reduction of port time for goods. On the contrary, the computer system of the Single Window is not connected to the computer systems of its various participants for lack of cooperation among the departments. Determinant progress must be made for the Single Window to make a meaningful contribution to reducing port time and customs clearance procedures with a view to promote the integration of the DRC external trade

3.110 The price structure in the port of Matadi: The COPIREP analysis confirms that the port of Matadi was costly based on illustrations about imports of (i) a consumer product very similar to the example used in Section 1.3.1 of the Chapter; (ii) a second-hand car; and (iii) a container of second-hand clothing. For the second-hand car, the most striking features were (i) handling goods « on board » cost €17.3 per ton; ONATRA transit cost US$32 per ton; and transportation to Kinshasa cost $55 USD per ton. For a second-hand car, handling by ONATRA would cost $300 USD a piece, and the OCC “tally” would cost $150 USD per unit. Judging by the rate per ton, the tally for the second-hand car is much more expensive than for major consumer goods ($5 per ton). For second-hand clothing, handling a container weighing 12T150 and also valued at US$1000 per ton, costs $1200, i.e. US$100 per ton; OCC gets 5% of the CIF value. Here again the container is more expensive per ton than for major consumer goods. To all that must be added the quarantine, which costs (US$200); to which must be added the FPI, i.e. 2% of the CIF value and the import duties.

3.111 The “COPIREP diagnosis» Report is very incomplete. Moreover, a significant part of port revenue and expenditure accounting is managed by the General Directorate in Kinshasa. Therefore, it is difficult to get an overall view of the financial situation and the trading results of the operations conducted at the port of Matadi as an autonomous body.

3.112 It is difficult to propose corrective measures to streamline financial management of the ports for lack of clarity in the account books and that becomes obvious when we analyze personnel costs. For 2006, staff expenditure amounted to approximately US$3.3 million for a total handled tonnage of about 1.96 million tons and a turnover of US $60.7 million. It would be imperative to know details of

[28] The principle of a Single Window is to assemble within one initiative all the administrative tasks that must be carried out for a given result, principally in this case for mechandise for export. The Single Window provides the opportunity to accomplish 4 requirements through one single procedure with the goal of making the necessary operations effective and transparent. The time needed to accomplish the unified procedure is not inferior to the time spent on the four separately.

the difference between those two figures. For instance, it is at least surprising that staff expenditure takes up only 3.3% of the turnover. There again, no mention was made of any financial problems in paying retired staff or superannuated staff still serving at the port.

3.113 It is patent that formulating a trade facilitation policy calls for the rehabilitation and reorganization of the port of Matadi by: (i) developing a strategy and plan of action to rehabilitate and improve the port of Matadi, including particularly a schedule of tariffs reflecting the economic costs, with the exception of depreciation costs for the surplus staff on the ONATRA payroll (only a part of which can be attributed to the port of Matadi) and for whom a specific social plan and financing must be sought; (ii) preparing a specific social plan at the port to down-size the excess staff below retirement age, including staff who have reached retirement age but still in service; (iii) drawing down the ceiling of expenditure over the amount of US$2000 requiring the approval of the General Directorate in Kinshasa; and (iv) reviewing the procedures in order to curtail port time, jointly with OFIDA and the operators

River Navigation Board (Regie des Voies Fluviales)

3.114 The mission of the River Navigation Board (RVF) is «To ensure the safety of river navigation». It must notably assure: (i) dredging; (ii) maintenance and rehabilitation of navigational aids; and (iii) landing stages for river ports. COPIREP undertook a technical, operational, financial and organizational diagnosis in order to identify the bottlenecks and thus propose solutions.

3.115 It has been established that all the equipment is in an advanced state of disrepair and cannot work to maximum capacity**.** The other similar observation relates to the operational aspects. The financial situation is dire and the Board is unable to finance the required investments. Nor does it have the capacity to mobilize resources to support the necessary investments.

3.116 A total of 321 workers were counted during an audit, and comprised of 113 supervisors, 65 foremen and 143 categorized workers. Those figures show a disparity between the number of senior staff and the workers i.e. a 1 to 1.8 ratio. Many of them are employees in the functional departments, whereas there is a shortage of manpower in the operating departments. 48% of the staff is aged over 50 years, 25% of who have already reached retirement age. The average salary is US $2458 per worker, practically twice what was paid out in 1984 to 984 workers. But COPIREP diagnosis does not allude to the issue of funding staff already on retirement but who are working, even though they are past retirement age.

3.117 In the interviews with the World Bank mission in October, 2009, the operators highlighted many dysfunctions that often increase the costs and risks associated with river transportation of goods. More analysis on this issue is needed

3.3.6 Congolese Control Office (OCC)

3.118 OCC intervenes in matters relating to imports, exports and a number of domestic transactions. Pursuant to the mandate conferred upon it by Law no. 74-013, OCC was vested with the following functions: (i) quality and quantity control and ensuring conformity of all goods; (ii) analysis of all samples and products and (iii) technical control of all devices and works. Moreover, OCC has to intervene in imports and exports under the prevailing laws. OCC statutes were renewed in December, 009, and seem to preclude the *de facto* missions of controlling quantity, quality and value.

3.119 As at today OCC levies a 1% duty on exports and 2% on imports, respectively, of the FOB and CIF value in addition to (i) a flat levy of US$5 per ton as a « tally » on import operations; the said levy is variable in the case of quality control; and (ii) some penalties. of OCC turnover was around US$103 million in 2008, and it had around 3500 employees. (Source: OCC, Annual Report, 2008), with a unit price of about $18.000 per person

3.120 The OCC. procedures are to a large extent similar to those for customs inspection of import quantity and value, but they overlap. Furthermore, it seems that OCC wants to systematically inspect all goods upon arrival, including those already inspected by BIVAC prior to loading. It should be noted that this company is the official representative of OCC and as such it conducts the pre-inspection of imports. Overlapping in export procedures is less, in that only OCC systematically inspects exports (often in the presence, but without the effective participation of the OFIDA). BIVAC is not mandated to conduct import-related checks.

3.121 In the case of sanitary controls, the controls carried out by OCC and the departments of the Ministries of Health, Agriculture etc. overlap. Furthermore, OCC controls freight and insurance value of on behalf of OGEFREM, and, in both cases, may make adjustments resulting in penalties. (See Annual Report 2008, page 33). The OCC also apparently has a mandate from the Ministry of the Economy and Trade to monitor the effective payment of taxes on import and export licenses, and impose penalties in case of contravention.

3.122 There has been a lot of controversy about OCC for some years due to the lack of clarity about: (i) the level of the levy to impose on import and export control operations; (ii) the authority responsible for determining the rates, that is OCC or the officials of the supervisory Ministry; lastly, (iii) the very justification of certain control activities carried out by OCC on external trade operations. OCC considers that the rates paid to it for imports should be higher than 2% and it very reluctantly agreed to its reduction from 3 to 2% imposed its supervisory Ministry in September, 2009. In the opinion of operators, the OOC levies can be assimilated to taxes, as they offer no equivalent services in return. But to the State, the OCC is an essential element for control and surveillances of private sector activities; its activity will undoubtedly be translated into revenue largely exceeding costs and will go to increase State revenue.

3.123 As at today, and setting aside the «penalty» component, one can sum up OCC levies as follows: (i) exports, 1 to 1.2% of the FOB value; and (ii) imports, 2% of the CIF value plus a “tally” of $5 per ton with a minimum collection of $100.

3.124 If the basic rate for imports is now at 2%, it is unclear whether that is the only rate applicable. The OCC tariff as presented to the World Bank mission in October, 2009, seems to imply effective rates well above 2% for imports valued below $2500.

3.125 In that context, it is worth noting that since the middle of 2006, any imports valued over $2500 must be subjected to BIVAC pre-shipment inspection. BIVAC receives a fee of 0.75% of the FOB value, payable by OCC from the levy it charges (2% of the CIF value) upon submission of the Attestation of Value (AV) authorising importation. The remainder is for OCC. However, imports valued below $2500 are exempted from pre-inspection by the BIVAC, but they must however be inspected upon arrival by the OCC departments. Should the need arise, it should be known whether the levy collected is 2% of the CIF value or if the rates stated in the tariff that are above 2% will be charged. The same kind of problem arises for the «tally» which, according to OCC, is $5 per ton. However, for parcels weighing less than a ton, the tally seems to be well above $5 (Source Importers’ Guide) when the minimum flat rate is applied. Those questions need to be clarified by the OCC departments.

3.126 Today, the objections and complaints leveled against the OCC by the operators are identical to those raised 20 years ago. Particularly concerning the extent of overlapping between OCC and OFIDA procedures. In addition, OCC makes many groundless adjustments resulting in penalties payable on transactions. There is no concordance between the amount of the levies and the services rendered to importers and to the economy in general.

3.127 However, OCC states that its inspection activities generate substantial revenue for the collectivity by way of (i) additional tax revenue for the State from the verification not only of the value of goods, but also of freight and insurance; and (ii) protection of the consumer by refusing to allow the distribution of goods it deems unfit for consumption (the case of rice in 2009). The OCC Annual Report for 2008 gives the relevant figures for those measures, by drawing a distinction between (i) imports inspected prior to loading and (ii) imports inspected on arrival.29

3.128 As regards adjustment of FOB values for goods subjected to inspection prior to loading, the total value of goods requiring verification notes (AV) amounted to US$4,597 billion. The total value of AVs issued by BIVAC was US$2.634 billion for a total of 35673 files. 7795 files were adjusted and the disparity in revenue was US$109 million as compared to a declared value of US $226.9 million, giving a 48% adjustment rate. Considering that the average rate of import duties (ICA included) was 33%, the US$109 million adjustment would have generated additional customs revenue of about $36 million. OCC would have gained around US$2.2 million (2% of the adjustment amount i.e. US$109 million), US$0.82 million of which should have gone to BIVAC.

3.129 Concerning adjustments on CIF basis upon arrival, OCC Annual Report highlights a total adjustment of US$ 49.9 million. It is worth noting that adjustment of the FOB value (US$38 million) is only 35% of that carried out by BIVAC on FOB values. It can be assumed that the adjustment done by OCC upon the arrival of goods is independent of that carried out by BIVAC. As a matter of fact, OCC believes that it is entitled to make adjustments independently of those carried out by BIVAC prior to loading. There is also reason to note that OCC made adjustments on freight and insurance. But no details were provided on that score. However, it can be assumed that adjustment of the freight value is by virtue of the recent subrogation granted to OCC by OGEFREM. But that is still to be confirmed, just like the modalities for calculating adjustments. The same issues arise concerning insurance.

3.130 With regards to consumer protection, OCC conducted an analysis of 48536 samples, with 45.7% on food products and 54.3% on non-food products. There were 1044 cases of non-conformity, most of which were in Kinshasa (93 %). But no additional information is available.

3.131 Conclusion. Firstly, it seems likely that over the years, OCC interventions had produced positive effects by way of: (i) increasing customs revenue; and (ii) identifying goods unfit for consumption. But the increase in revenue was mainly the result of adjustments to the FOB value carried out by OCC representatives prior to loading rather than adjustments carried out by the OCC departments upon arrival of goods.

3.132 However, the cost of the interventions looks high, especially when the rates of the levies are compared with those applied in other French-Speaking African countries and that are generally lower than 1%. Moreover, there may be a regressive element in the OCC rate structure since the rate for small parcels can be proportionally higher than that for large parcels. Lastly, it is quite unclear that the levy is commensurate with the value of services rendered, as should be the case, within the purview of Article VIII of the GATT Agreement. For instance, what service is rendered to the client

[29] See the Annual Report, pages 8 and 33

in return for the tally- in other words, the counting of goods upon their arrival and for which the OCC earns $5 per ton (i.e. $50.000 for a cargo of rice).

3.133 It is worth noting that OCC rates have been low for some time now and should be increased to levels comparable with those prevailing in other SADDC countries, i.e. 4 to 5% of the CIF value of imported goods. It appears that if the decision were incumbent on OCC, it would raise the rates to levels applicable in other countries of the sub-region.

3.134 But the rate of OCC levies must be set forth in regulations and not left at the sole discretion of the Office holding the monopoly. In addition, any request for higher rates must be given careful thought. Currently, OCC earns a decent income from imports valued at over US$2500 since pre-inspection by BIVAC, a true inspection work involving taking down statistics, is levied at 0.75% of the FOB value, whereas the OCC collects 2% levy on the CIF value.

3.135 By the same token, the rate on the CIF value of imports under US$2500 must be justified as it seems high. The "tally" should be proscribed, through lack of justification. Those OCC «quasi customs» procedures should be drastically simplified or even abolished.

3.136 There is no reason to inspect 100% of the imports upon arrival when the CIF value is above US$2500, especially goods imported in FCL bearing the BIVAC seal. The inspection rate upon arrival of goods could be reduced in substantial proportions for that category of imports and be conducted only at the request of the Customs for contentious files for which OCC technical and documentation expertise could be solicited. Reduction of the rate of inspection would help to curtail the time spent in clearing goods out of the port.

3.137 For imports valued under US$2500, there could be a rationale for higher inspection rates; it should at least not be exhaustive, at arrival since imported goods were not inspected prior to loading. But, here again, inspection should normally be the prerogative of OFIDA, that could appeal to the BIVAC or OCC, should the need arise.

3.138 It would be necessary to avoid or reduce to a minimum the overlapping of similar interventions, or rather maximize the complementarity of OCC activities and those of the technical Ministries in charge of phytosanitary controls, etc.

3.139 More basically, it will be necessary to reconsider *in toto* OCC's role and mission, while making allowances for the roles to preserve and those to possibly eliminate. The Office in particular should no longer be mandated to inspect all goods (except with the consent of the Customs Department and the technical Ministries). The overlapping of its procedures with those of the Customs must be henceforth precluded. The Office should no longer intervene in customs clearance operations, in assessing the FOB value, the freight and freight insurance value. The reason is because OFIDA has already determined the taxable value of goods taking into account the value proposed by BIVAC in its capacity as representative of OCC. The current practice generates disputes that attract penalties, often for transactions that are more or less negotiable or purely formal.

3.140 The role of inspecting imports upon arrival can be assigned to the Office only at the request of OFIDA and under quite specific conditions to be determined. The same goes for the inspection of food products and products of animal and plant that may be unfit for consumption or posing a public health risk. The OCC could play an important extra role in the technical Ministries concerned. The export strategy must be identical. OCC should not duplicate inspection conducted by OFIDA or other agencies (mines, forestry…) but it could be empowered to provide technical assistance by delegation subject to the availability of the required technical expertise and after winning a competitive tender. The regulations governing OCC should be reviewed accordingly.

3.141 It must be acknowledged that reviewing OCC mandate will be an intricate and politically sensitive issue, given the economic, political and social interests at stake. Hence, such review must be based on an evaluation independent from OCC activities to be carried out to complement this analysis.

3.3.7 DGDA

3.142 That section analyses issues pertaining to DGDA (formerly OFIDA); it is organized as follows: (i) diagnosis of the Institution as such; (ii) comment on the legal and regulatory framework; (iii) diagnosis of proceduresm and (iv) recommendations. While the analysis focuses mainly on the Kinshasa-Matadi Corridor, it is of general scope.

3.143 Until January 2010, DGDA operated as a public Agency and was financed by retrocession of 5 % of the revenue effectively collected. But since then, it has been absorbed into the Ministry of Finance. It employs 4600 workers (over 800 of the temporary staff). It collects about 35 to 40 % of government revenue, with a budget amounting to 5.25% of revenue collected, i.e. about US$40 million in 2008 (when imports amounted to US$6.7 billion and revenue stood at around US$750 million[30]) and accounted for about 0.6% of the FOB value of imports and 0.3% of the total imports and exports value[31]. The Services in Matadi, Kinshasa and Lubumbashi collect 80% of the revenue and Matadi alone collects 38% of overall customs revenue throughout the country. Given the heavy dependence of the national budget on customs revenue, any approach to trade facilitation must combine trade facilitation and the safety of customs revenue; in clear terms, any facilitation measure must reduce the risk of revenue loss.

3.144 DGDA operations are influenced by the operations of other intermediaries or key actors intervening in import procedures including: (i) Licensed Customs brokers and licensed transporters; (ii) OCC, ONATRA, OGEFREM, some private companies providing assistance to DGDA under pecuniary contracts, namely, (i) BIVAC; (ii) AUFS; and (iii) CTC.

3.145 Since 2006, BIVAC, a French company, has inspected imported goods prior to loading: verifying values and quantities, affixing seals, which enables it to issue an inspection note that justifies the issuance of a verification note (AV). This arrangement is valid only for goods valued at over US$2500. It is estimated that 40 % of the files on imports valued above US$2500 are covered by attestations issued by BIVAC (Source: Sub-Director of Customs and BIVAC). It is important at the same time to note that the coverage rate of imports to Bas Congo, Kinshasa and Katanga is much higher than for goods to the rest of the country. In Kinshasa East, customs declarations are covered to the extent of 95% by an AV (Source: Chief of Bureau). Initially, it was prohibited to unload goods without an AV. Faced with the impracticability of that measure it was decided to increase the penalty to the same level as the duty based on the adjusted value, and a Customs fine. BIVAC gets a fee of 0.75% of the FOB value, payable to it directly by the bank that issued the license or the import declaration.

3.146 BIVAC has made available to its clients two systems accessible by Internet: (i) BIVAC Online which helps importers to follow up their files; and (ii) BV – CVA, a data bank of values accessible to DGDA, OCC and CTC. Less than a hundred OFIDA users are connected, and are essentially in the central services.[32] However, it is worth noting that the FOB value given by BIVAC

[30] Using the average exchange rate of 1$ = 563 FC.

[31] Comparatively, BIVAC was paid 0.75 percent of all imports submitted to inspection, totaling 20 million USD in 2008. The interventions made by BIVAC are considered to have caused a decrease in revenues estimated as 35 million USD.

[32] Finally, BIVAC does not look favorably upon any plans to substitute unloading inspection for the current practice of loading inspection, as has been the case in other countries in Sub-Saharan Africa.

cannot be legally invoked against DGDA as a factor for determining the taxable value, especially since such a decision is under discussion as part of an IMF support program.

3.147 The African Union Financial Services (AUFS), a South African company, has been under a contract since 2006, to install (i) mobile and fixed scanners, (ii) a telecommunications network in eight sites (Matadi, Kinshasa, Goma, Ndili, Lubumbashi), and (iii) surveillance video cameras at sensitive points (ports, /observation posts), for a total amount of approximately US$54 million. The company receives two-part payments: (i) an undisclosed percentage of customs revenue exceeding the monthly ceiling, negotiated annually with DGDA; and (ii) 75% of proceeds of fees payable in principle on the CIF value of imported and exported goods. The remaining 25% is defrayed by DGDA. The payments are settled at the Single Window. Revenue so derived was $24 million for 2009; according to DGDA, revenue thus earned by the AUFS is estimated at $18 million.

3.148 Between August 2008, and February 2010, CTC, a US company, provided technical cooperation through about sixty consultants, to formulate and implement a comprehensive and national modernization program. But CTC left in February 2010, following non-payment of its professional fees. CTC provided assistance in two areas: institutional reforms and operational assistance, with consultants posted directly to the Customs offices. Eight of them were effectively working in Matadi, four in Kin East, and one in Kin Aero. Other consultants were working in Katanga and the plan was to deploy some to the East. It was impossible to know the professional fees charged by the CTC.

3.149 In short, DGDA receives substantial technical assistance from various partners to support a reform process initiated in 2003. Unfortunately, that assistance is neither well-coordinated, nor designed as a capacity-building process. Apparently, there is no proper collaboration between DGDA, the private sector and donors in the implementation of the capacity-building and reform process. Therefore the reforms are unlikely to be adapted to the specific conditions in the DRC, or to be acceptable and integrated by DGDA. However, DGDA is aware of the need to deepen the reforms and build its capacities

DGDA Regulation

3.150 The basic legislation dates back to 1949, notwithstanding the signing of two Decrees in 2003, specifying tariffs assessment and classification methods. A new Customs Code was approved by the National Assembly in 2005, but still has to be passed by the Senate. The new Code has the merit of recognizing the right of importers and exporters to declare goods by themselves. CTC recently requested a review of the new draft Code, to bring it in line with the Revised Kyoto Convention, by including, *inter alia*, provisions allowing DGDA to conduct inspections based on audits rather than physical checks during customs clearance operations (ports, airport, etc.)

DGDA Procedures

3.151 The procedures are described in detail in the Appendix; it is a brief summary mainly of the Matadi-Kinshasa Corridor. However, the analysis is of general scope.

3.152 Since the Presidential Decree of December 30, 2005, and at donors ‘instigation, the Single Window (GU) was created. Currently, there are Single Windows only in Matadi and Lubumbashi. The Single Window is designed to coordinate DGDA, ONATRA, OGEFREM and OCC procedures. It is managed by DGDA.

3.153 The Single Window in Matadi is most of all <u>a single channel for payments</u>. It seems however that part of the fees due to OCC and OGEFREM are paid outside the Single Window. DGDA which manages the Single Window collects import duties and levies on all the services charged to the importer, exporter or their representative in ONATRA**,** OGEFREM , OCC, DGRAD, the Ministry of Trade, the Industrial Promotion Fund (FPI) and AUFS (African Union Financial Services). Payment is made into one bank or the other located at the Single Window (no authorization is required). Banks use software to break down the fees collected into various Treasury accounts, and other recipient institutions. They then notify DGDA and the various partners about the payments. However, donors only finance the DGDA Window. The other Agencies personally procured their own management and electronic information support systems that -while communicating with the DGDA system- continue to implement specific validation procedures peculiar to each entity, thus perpetuating habits, specificities and personal interests. In addition, the information technology procedures are generally backed up by manual procedures.

3.154 The main findings are*:*

- Twenty-five (25) documents are needed for 8 operators to compile a file for import and export formalities. The documents do not comply with international standards, resulting in delays in file preparation.
- The customs procedures are out dated and fail to comply with the international standards recommended by the World Customs Organization (WCO) and stipulated in the Revised Kyoto Convention. They reflect an approach of checks and counter-checks prior to the release of goods which inevitably prolongs the duration for clearing goods from the port. This shows the mutual mistrust between all stakeholders. The system is also partly based on rewarding staff for efficiency and that gesture is funded by penalties or the threat of fines and/or of slowing down normal procedures, as a result of procedures dominated by informal facilitation rather than compliance with normal procedures. Sometimes delays in normal procedures and/or errors induce operators to become amenable to "greasing people's palms" to get their goods out of customs. DGDA is not the only structure faced with these problems.
- Many DGDA procedures and controls are needlessly duplicated by those undertaken by OCC, OGEFREM and the port of Matadi, the cost of which is exorbitant for operators, especially as they expect no economic returns and financial value added. It is particularly worthy of note that an AV issued by BIVAC and a FERI issued by OGEFREM are required in order to clear goods from customs The information contained in the FERI is normally identical to that in the AV issued by BIVAC, since that it is established after the AV and on the same lines. OGEFREM has foreign partners responsible for gathering information at ports of embarkation.
- The procedures are poorly coordinated among the different actors. Customs procedures are often slowed down by failure to perform the necessary procedures with the other actors involved in the process. Problems include slow unloading and removal of containers by ONATRA due to non-availability of equipment, late submission of manifests by shippers, different dates on manifests (ONATRA, OCC and DGDA, 100% inspection of containers, ships under quarantine, OCC inspection of sensitive products, etc.
- The information and management systems are inadequately computerized and computerized procedures, if any, are often backed up by parallel manual procedures.
- There is much unnecessary duplication of signatures, by hand or electronically.
- The Single Windows (GU) is viewed as a good idea and a step worth emulating. However it is incomplete. In Matadi, the Single Window is merely a payment counter, and even that counter is not Single, since some payments continue to be made outside.
- The computer reform process – notably the migration of ASYCUDA 2.7 to ASYCUDA ++ was prepared without adequate consultation with private sector partners and without sufficient participation of customs experts. Thus, ASYCUDA ++ incorporates the current procedures (be they manual or computerized into ASYCUDA 2.7). It is rather necessary to use migration as an opportunity to dismantle the current procedures and work out new procedures based on the potentialities of ASYCUDA++/WORLD. Morevover, il would be proper not to migrate to ASYCUDA WORLD as fast as anticipated. It is necessary to prepare migration as a very important «event» with the active participation of private and public partners since the latter certainly have their own computer reform process. There is need for the systems to be compatible in terms of technical standards and data exchange.

- Scanner set-up is a process which does not seem to be well understood and much less mastered by DGDA and its supervisory ministry. The terms of the contract are not well known and they are likely to generate private income for the service provider.

3.155 The diagnosis in Katanga is essentially the same as for the Matadi-Kinshasa Corridor with regard to: (i) the legal and regulatory framework and its implementation; (ii) the slowness and complexity of the procedures; and (iii) duplication of DGDA procedures by OCC and other agencies. Attention has been drawn to the acuity of logistics issues concerning (i) SNCC and (ii) the congestion at the Kasambalesa border post. To this should be added the issue of political interference by the provincial authorities, particularly in the export process. This issue was also raised during the meeting on products transported along the Matadi-Kinshasa-Kisangani Corridor.

3.156 The diagnosis for the East is mostly the same as that for the Matadi-Kinshasa Corridor. However, a peculiar feature was mentioned, namely, the inefficient functioning of the BIVAC pre-shipment inspection of the numerous goods imported from neighboring countries, which raises two issues: (i) approval of the AV by BIVAC takes time and goods often arrive without an AV, thus making it difficult for importers to comply with the prevailing regulations, despite their willingness to do so; and (ii) DGDA does not have the information contained in the AV about the FOB value, etc. The problem may be all the more compounded since the goods are often imported by small-scale operators. Under these circumstances, either the imported goods wait until all the information needed for completing the classical customs clearing formalities has been obtained, or a simplified flat-rate procedure is implemented. This topic requires additional work.

Recommendations for Customs

3.157 . The recommendations are of two types: (a) universal, that is to say, applicable in principle at all Customs Posts; and (b) specific to certain Corridors (Matadi, Katanga and East).

General Recommendations

3.158 The recommendations are designed to reflect on how to consolidate the recent progress made in the areas of trade facilitation and customs clearance including: (i) early submission of manifests; (ii) payment of duties and taxes before goods are inspected; (iii) payment at a Single Window; and (iv) a management culture peculiar to DGDA as a public corporation. The key points are as follows:

- Optimizing existing facilitation measures by more rational use of computer tools and making the logistics operators more accountable.
- Reinforcing dialogue and partnership between the administrative departments and the private sector.
- Reconciling monitoring of execution and facilitation.

3.159 <u>It is necessary to optimize existing facilitation measures by more rational use of computer tools and making the operators in the logistics chain more accountable, in particular by means of the following.</u>

- It is advisable to set up a working group, including all the key partners, to prepare a reform and completely simplify the procedures, while ensuring that the new procedures reflect the needs of the new computer systems. But beforehand, it would be proper to apply the following measures:
- Redundancy between OCC and DGDA must be eliminated, by redefining the role of OCC. OCC must (i) focus on the national territory; and (ii) intervene solely at the frontier and at the express request of DGDA or systematically, in the case of certain products.
- Similarly, the principle of a systematic physical check must be abolished and be limited to a reliable proportion of imports and exports. For imports pre-inspected by BIVAC, a 10 to 20%

rate would be adequate, but must be defined in terms of the potential risk of fraud. A higher rate could eventually be levied on goods that were not inspected prior to loading.

- Manifests must be submitted 24 hours before the arrival of the goods in Matadi. The manifest must, as far as possible, be entered into the Customs computer system by the consignee and not by DGDA (currently the case), before the berthing of the ship. Such a change in the system would restore the significance of the manifest as a summary customs declaration and to make the consignees accountable including for any errors in data entry, which would result in penalties by DGDA.
- OCC and OGEFREM should issue their final bills before DGDA pre-settlement and especially on the same basis as DGDA with respect to the FOB value, freight and insurance. The argument advanced by some OCC, DGDA and OGEFREM agents for readjusting the value or altering the manifest is not tenable, as any readjustment of value or quantity has a marginal impact on billing. Revenue and advantages of applying a common value largely outweigh any possible loss of income.
- Licensed Customs agents should be able to register their detailed declarations from their own premises; they should consequently be compelled to comply with that requirement where the possibility already exists. This measure should also be applicable to warehouses and other Customs bonded warehouses managers. Since their management is by concession, such concession must induce accountability from beginning to end: the operators of bonded warehouses (MAD) must themselves issue the delivery note. DGDA will conduct retrospective documentary or physical inspections, primarily on the basis of inventories.
- Overall, migration to the most recent versions of ASYCUDA must be an opportunity for thorough and concerted review of these procedures. The installation of ASYCUDA ++ /ASYCUDA World must be «an event», since it will help get right of the old formula. It would certainly be in the interest of DGDA to slow down, or even interrupt, its migration program under its current form to consider it under another form, jointly with the other partners, possibly under the authority of the Minister of Finance. Since these partners certainly have their own computer reform process, the systems have to be compatible in terms of technical standards and data exchange.
- It is important to standardize all the documents relating to international trade to meet prevailing international standards. This can largely simplify the preparation of import and export files. The same applies to the electronic exchange of data.
- Coordination of technical assistance must be improved.

3.160 <u>It is necessary to reinforce dialogue and partnership between the administrative departments and the private sector</u>. Presently, forwarding agents regularly incur informal facilitation costs termed "administrative and operational costs" to the tune of US$200 to US$400 per operation in Matadi or Kinshasa. It appears that these small payments are required for their papers to be transmitted from one office to the other. The issue here is not the amount but rather the unpredictability and the threat of negotiations looming over each operation. The possibility of concluding a «Protocol» between the professional partners (consignees, Customs agents) and the various relevant bodies (DGDA, OCC, etc.) to set the exact cost of each operation (modification of manifest, printing of document, etc…). The proceeds accruing from the Protocol will then be put together and redistributed equally among the agents.

3.161 It is recommended that the unions of consignees and forwarding agents be involved in these discussions. If the fees collected are settled on an ad hoc basis during customs settlement, they might as well be paid at the Single Window. Then they will be forwarded to the Treasury for transfer to DGDA. It will be an improvement, without however completely eradicating the issue of informal payments.

3.162 Such an action can only be taken by reinforcing dialogue between the private sector actors and the administrative services. It is important for the private and public sectors to share the same views about time limits for the private and public sector operators as well as inspection performance and the magnitude of fraud. This issue is included in the following point on the systematic production and dissemination of indicators.

3.163 Finally, there is need to reconcile control of performance and facilitation. The arguments for control mentioned in the previous analysis meets the need for hierarchical supervision within a context of high corruption. Whether it is direct hierarchical checks or support to inspections through external private companies, this principle cannot be questioned as long as customs revenue alone contributes 35% of State revenue with a high risk of corruption. It is imperative to reconcile inspection with facilitation and ensure that it fits into the culture of success and development which is being sought for the economy in the DRC (participation in a new professional culture).

3.164 Currently, the DGDA internal audit department is staffed by 35 persons but lacks a computerized resource management system. A CTC audit consultant not specialized in Customs-related issues used to support the department. Presently, control is based on a superposition of internal and semi-external controls via CTC, relying mainly on denunciations. It is not completely mastered by the hierarchical authorities who do not have specific, regular information on what is happening in the field.

3.165 Under these conditions, it seems important to develop an information system capable of cross-checking data and providing indicators to the authorities, by service and by individual, on the performances of each entity, both private and public. In addition, these indicators should be brought to the attention of DGDA users and clients.

3.166 On the other hand, this approach will introduce a new professional culture not only within the Administration but also among the clients by prompting them to better organize their tasks, as this is the only possible way to long-term development. On the other hand, indicators reinforce the capacity for dialogue between the Administration and the private sector: DGDA departments would be able to identify both public and private actors in the customs clearing business who fail to meet their commitments towards the goal of trade facilitation. Moreover, this approach would favor the creation of a post-inspection system which could replace the current type of internal control that can only hamper the customs clearing process.

3.167 In brief it is necessary to (i) automate the entire customs clearance chain and abolish manual operations (registers, signatures by superiors), and even certain documents (BAE notably); (ii) open the customs clearance system to a maximum number of public and private actors in the chain, to make them accountable for their actions; (iii) reinforce dialogue within the joint committees and (iv) produce figures for indicators and objectives relating to the action of each actor to form a body of principles that could be adopted as part of procedural reform coupled with the migration to ASYCUDA ++.

Specific recommendations for the Katanga

3.168 The specific recommendations made hereafter relate to the logistics and procedures for import and export operations:

- Set up a working group comprised of all public and private stakeholders to reform all the procedures for systemic management and management based on quality
- Implement COMESA and SADCC regulations on documentation.
- Pursue attempts to perform customs clearance operations at home for operators presenting the necessary guarantees.

- Create performance indicators.
- Set strict rules for entry into the «No man's land» at the Customs Post in Kasumbelesa. Daily discussions between the Congolese and Zambian authorities on the rules of passage and stringent discipline on the use of the space should facilitate import and exports traffic through both directions simultaneously and not alternatively as it is currently the case. Putting that space in order is an urgent and indispensable measure to control truck passage. Basic investments are around US$500.000 and could be financed, if necessary, by the mining sector operators.
- Dispel, without delay, the uncertainties harbored by operators as to :
  - The implementation of the Mining Code ;
  - Tariffs and fees applicable for OCC and BIVAC pre-shipment inspections ;
  - Eliminate overlapping of controls by OCC and other agencies inspecting mineral products;
  - Updating obsolete texts and regulations which are regularly invoked by representatives of the authority and result in levying taxes out of context (e.g. regulations on hygiene, seals, etc.…) ; and
  - Defining precise rules limiting the number of and conditions for intervention by State and Provincial Services in the import and export process.
- Comply with and limit the number of Agencies and persons authorized to assist in customs clearance operations.

3.3.8 Other institutions

3.169 There are three institutions: (i) the Industrial Promotion Fund; and (ii) DGRAD; and (iii) ONC.

3.170 The Industrial Promotion Fund (FPI) is financed by2% levy on the CIF value on part of imports plus import duties. FPI as such does not intervene at the customs clearing process, and does not impede it. The amount raised in 2008 was US$ 20 million, but that figure remains to be clarified. It would be also important to conduct a FPI audit to ensure whether the funds collected were properly used and it would be desirable to replenish the funds by imposing a levy on imports.

3.171 Neither does the DRGRAD intervene in the import process, but it is responsible for collecting administrative fees on behalf of a number of Ministries (Trade, Health and Agriculture, *inter alia*). According to DGDA, the total amount of revenue for DGRAD was about US$ 10 million in 2008.

3.172 ONC was established in 1972, and has since been responsible for inspecting coffee imports, including quality control. Since March 2009, however, ONC has been entrusted, by Ministerial Order, with new responsibilities including the inspection of a wide range of products, namely, tea, rubber, essential oils, and medicinal plants. The OCC activities in the coffee sector have already been vehemently criticized by FEC for imposing considerable constraints on import development. Criticisms have become even more virulent since the expansion of the missions assigned to ONC, and in particular, FEC questions the legal basis for broadening ONC's terms of reference. The operators interviewed during the compilation of this Report pointed out that ONC activities are effectively a major impediment to the development of the sector and the boosting of activities in the rural sector. There is reason for a complete review of ONC missions and operating procedures.

3.3.9 Duties collected by the public institutions involved in import and export operations

3.173 The institutional analysis above highlighted the fact that many public institutions are paid from levies on import and export operations. The cost of customs clearance operations in the

Congolese ports can be summed up as follows, by Agency. *Grosso modo*, it seems that imports and exports may generate for these institutions revenue likely to reach a minimum amount of US$300 million annually, and perhaps more, which is an initial estimate that still has to be validated.

Table 8: Levies on imports and exports

Agency	Cost per operation	Annual Amount (US$m) 2008
BCC	2 out of 2 000 on all import transactions	20
RVM	Maritime dues (2008)	28
ONATRA	Lift-on/lift-off system €17.3/MT ;Roll-on/roll-off system $32/per MT	60
DGDA	5 percent of total revenue	37.5
OCC	2% of CIF value of inspected imports, 1 percent of FOB value of exports, tally $5 per ton ; inspection of quality --variable	103, y.c for domestic market operations
ONC	Taxes and fees for coffee, other agricultural produce	Not available
BIVAC	0.75 percent of FOB value, collected through OCC	20
OGEFREM	1.8% freight value charged to shipping agent+ 0.59 % of FOB value/CIF+FERI	25 including + FERI
FPI	2 percent of CIF value plus import duties on some tariff positions	20
DGRAD	Various administrative and land revenue collected on behalf of technical Ministries (Health, Agriculture, External Trade	10
AUFS	1 percent of FOB value+CIF, of which 0.25 percent is reserved for Customs	24, 75% going to AUFS
CTC	Zero, but the overall amount of the fee is unknown	Unknown
Total		347 rounded to 350

3.174 In the DRC context, $350 million is a colossal amount, accounting for about 47 per cent of customs revenue in 2008, and 2.5 per cent of the FOB value of imported and exported goods. Under such conditions, it seems extremely important for the authorities to make all necessary efforts to ensure (i) that the levies are justified economically and that commensurate services are effectively rendered to users. This is not presently the case and this led to a situation where, for instance, shipping agents and/or forwarding agents are compelled to pay ONATRA without obtaining equivalent services. They therefore provide the services by themselves to the end user who has to pay twice for service rendered once. The same goes for OGEFREM and OCC. Furthermore, the legal, regulatory and administrative mechanism relating to levies is often not clear, nor is it correctly defined to defend the interests of users. This situation causes a wide disparity with the provisions of Articles 8 and 10 of the GATT Agreement and is certainly a matter of discussions between the DRC and the OMC as part of trade facilitation negotiations.

3.175 In public finance management, it seems very important to ensure that resources collected by these institutions are correctly accounted for and subsequently used for legitimate purposes in keeping with the real needs of the country and forth implementation of its trade policy. This work is yet to be undertaken. The stakes are quite high since US$350 million per year gives US$3.5 billion per decade.

3.3.10 Other important matters

3.176 In addition to the issues discussed in the previous sections on procedures and institutions, other reforms and measures will be necessary, especially as regards the legal, regulatory, and institutional frameworks.

3.177 **Trade law.** It is necessary to review the legislation on trade (Trade Law of 1973, etc.), especially in relation to (i) the creation and abuse of dominant positions in sea transportation; (ii) the protection of individual or groups of companies to the detriment of their competitors, at least at the domestic level. This also ought to be the moment to re-examine sea transportation policy, for the

Code of Conduct (40-40-20) is outdated. It would be proper to commission studies to determine the costs and benefits of different options.

3.178 **Insurance Code.** It seems SONAS continues to enjoy a monopoly, at least in the area of vehicle and transportation insurance, within the framework of the Trade Code and Insurance Code. This is undesirable, more so as this company is not in a position to provide real coverage and adequate compensation to its clients. It is necessary to ensure that these provisions are abrogated in the new Insurance Code currently awaiting approval, and it is desirable that approval be given as soon as possible.

3.179 **Customs Code.** The new bill for a Customs Code, including the amendments put forward by the various entities specialized in this field (WCO, WTO, IMF, CTC, etc.) must be adopted as soon as possible. This way, the legislation will be in agreement with the Kyoto Revised Convention and would allow the creation of a legal and regulatory framework that meets the needs of a modern economy. No supplementary work is required in this area, except that both the National Assembly and the Senate pass the bill.

3.180 **Availability and readability of the laws.** It is generally extremely difficult to gain access to the law in force and the corresponding enforcement laws that are often drafted by technical ministries. It would be necessary to compile the texts regulating every aspect of international transactions, make them available to the public including on the internet, and constantly update them. The initiative leading to the Official Gazette's "special edition" that has been used for some years now could be quickly followed in 2010. Moreover, the preparation of the said compilation would lay the foundation for a complete review of the laws so as to enhance their readability and connect them better. This review and the subsequent revision of the laws should be started right away for immediate implementation.

3.181 **Reducing the harassment of operators.** It is imperative for the authorities at the highest level to take the necessary steps to reduce harassment in the formal and so called informal sector. It would be necessary to set up an institution responsible for conciliation in the event of conflict or disagreement with the Government. In addition, high Government officials must have the political will and capacity to ensure that public agencies comply fully with the legal and regulatory framework. Failure in this respect would weaken trade facilitation.

3.182 **Establishment of a National Facilitation Commission in the office of the Prime Minister.** This Commission would be responsible for conceiving and managing the implementation of formal facilitation strategy, and to succeed, the said Commission must have the authority to impose its will during the difficult decisions and arbitrations that are certain to arise. The Commission would have offices at the main corridors and ports of entry in the DRC.

3.3.11 General conclusion

3.183 This chapter has highlighted the fact that external trade procedures in the DRC are lengthy, slow, expensive, and associated with a lot of risk. It proposes an approach to reform built mainly around the following principles:

- Reviewing the procedures and mandates of each of the agencies and institutions involved in import and export operations, as well as getting rid of those whose continued existence is no longer justified, including eliminating role splitting.
- Restructuring the bodies and agencies that are central to customs clearance operations in a bid to substantially reduce their costs and fees.

- Simplifying and bringing in line with the relevant international standards, the documents and information required for completing customs clearance formalities, especially at the pre-customs clearance stage.
- Steep increase in the electronic exchange of data at all stages of customs clearance operations.
- Replacing 100% inspection with a selective approach that relies on risk management, so that goods that for instance have been inspected by the BIVAC prior to loading are not inspected upon arrival.

This approach could result in massive reductions in port fees and call duration.

3.184 It is moreover evident that this approach might have a lot in common with that being studied at the Prime Minister's, which seeks to create a virtual Single Integrated Window based on the following principles: (i) the creation of a pre-customs clearance Window where all the procedures required for the creation of a clearance file will be made; (ii) improving customs clearance procedures by inspecting goods on a selective basis (risk management basis); and (iii) simplifying a number of procedures. In contrast, the reforms at the office of the Prime Minister do not appear to have considered the possibility of eliminating procedures that involve role splitting (OCC/Customs/BIVAC/OGEFREM, for example). If this dimension is not taken into consideration, it is very likely that the reforms would not yield the expected results. Moreover, it is not clear that the reforms would lead to a marked improvement in the situation in the DRC as regards Articles 8 and 10 of the GATT Agreement. It thus appears necessary to discuss preparations for the DRC's possible membership of the WTO Agreement in terms of trade facilitation, by introducing a coherent program for updating principles and implementing facilitation procedures**.**

Chapter 4 PERFORMANCE OF SECTORS UPSTREAM: INFRASTRUCTURE & SERVICES

4.1 TELECOMMUNICATIONS AND INFORMATION TECHNOLOGY

4.1.1 Key sector, critical structures

4.1 The lowering of tariff and non-tariff barriers to international trade opens up new opportunities and ends the isolation that allows inefficient companies to remain profitable. The quality of management in domestic enterprises and the performance of services that support them then become decisive factors in the enterprises' performance in terms of profitability and market share. Conversely, inefficient infrastructures can on their own cancel out the benefits of trade openness, for example, by making it essential for buyers and sellers to be in physical proximity. This Chapter reviews the performance of services and infrastructures situated upstream of sectors directly exposed to international competition. These services are mainly telecommunications, ICT (information and communications technology), transport, energy, with trade financing having already been covered in the previous Chapter.

4.2 A crucial sector for economic efficiency, well-being and regional and national integration, the mobile telephony sector is the most striking success in the DRC's economy. It shows its potential, but also the shortcomings of Government action in its three most important forms: infrastructure, regulations, and taxation.

4.1.2 Regulatory framework

4.3 The regulatory framework for telecommunications was determined in 2002 in Framework Law No. 013/2002 on telecommunications, and in Law No. 014/2002 creating the ARPTC, the regulatory authority for this sector. The regulatory framework is based on a model in which the public operator develops and manages a "reference network" to which private operators have access, and on competition in the supply of long-distance voice and data services, mobile telephony, and the provision of terminal equipment. The reference network does not at present exist. Its creation would require the reorganization of the public operator and the introduction of a fibre optic network linking the capital to the arrival point of the global backbone's submarine cables.

4.4 The legislator has in fact envisaged the creation of a new public operator by merging the National Satellite Telecommunication Network (RENATELSAT) and the OCPT, the traditional public operator in this sector.

4.5 Lastly, regulatory supervision of the industry is entrusted to an authority that is formally independent of its supervisory ministry and is financed by the prescribed fees, implying an important transfer of responsibility from the supervisory ministry to the regulatory authority. Those acts that generate public revenue are defined in Law No. 04/015/2004, whose revision is currently under consideration by the national authorities (see DRC 2009).

4.1.3 National infrastructure

Public sector

4.6 The fixed telephony network has totally collapsed. The OCPT, set up in 1968 and the public operator in the sector, is financially and operationally unable to fulfil its responsibilities. No public investment has been made in the public telephone infrastructure since the late 1970s and the rare equipment remaining is obsolescent and not in working order. The number of users is falling inexorably towards zero, with less than 2,000 subscribers in 2003 compared to 36,000 three years previously. The OCPT does not have any plans to rehabilitate the fixed telephone infrastructure at the present time and it is by no means certain that it would be worth it given developments in technology.

4.7 There is no access to submarine fibre optic cables for the time being. However, several large-scale projects (by private consortiums) are underway in Africa, some of which will become operational in 2010. The DRC should have access to the backbone via Muanda and a fibre optic link between Kinshasa and Muanda is currently being considered by the Government, in parallel with the reorganization of the OCPT. A more ambitious plan was also announced by RENATELSAT in 2009, under a public/private partnership with China Communications Services Corporation, with investment of US$274 million to create a national terrestrial/satellite high-speed network.

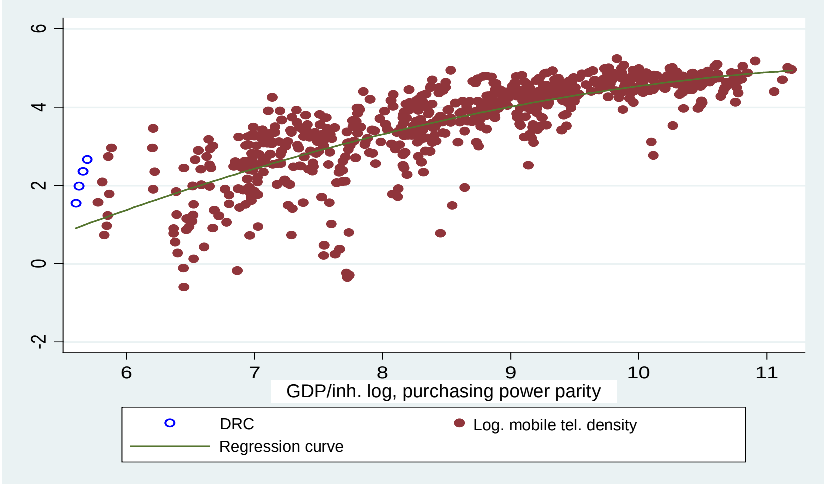
4.8 Access to ICT (Information and Communication Technoogies) is still extremely limited in Government departments. An Inter-ministerial Commission for the Computerization of Government Services was recently set up by Prime Ministerial decree. It will be replaced by a National ICT Committee, an advisory body, and a National ICT Agency. In practice, computerization of Government services will begin on the basis of a Government intranet set up in cooperation with Korean partners. Many bottlenecks remain, however, both in terms of training personnel, support services, adaptation of procedures, or quite simply access to electricity.

Private sector

4.9 An embryonic fixed data transfer network is at present being developed at the initiative of private investors. A private consortium, Congo Korea Telecom, started to put in place a fibre optic network in the capital, with around 3,000 subscribers in 2009. All other internet service providers use satellite links.

4.10 The mobile telephone network, on the other hand, is booming, despite the problems currently caused by the global financial crisis. The number of mobile telephone users rose in eight years (from 2001 to 2009) from 158,000 to 11.2 million, pushing density up from 0.3 per cent to 18.6 per cent. In absolute terms, mobile telephone density is still low in the DRC; a comparison using 2008 figures, when density was still 14.8 per cent, shows that it was lower than in neighbouring countries (in the same year, Uganda's density was 27.7 per cent and in the Republic of the Congo it was 54.8 per cent). Such rough comparisons need to be qualified however. In fact, mobile telephone density is closely correlated to income levels and population density. If these factors are taken into account, mobile telephone density in the DRC is well above its "natural" level. This can be seen in graphic form in Figure 22, which shows mobile telephone density, in logarithms, on the vertical axis, and per capita GDP in purchasing power parity, also in logarithms, on the horizontal axis. All the countries mentioned in the World Bank's *World Development Indicators* are represented in the Figure for the years 2005-2008. It will be seen that there is a close correlation between the two variables. The curve is that of least squares. It is obvious that the empty circles at the left-hand side, which correspond to the DRC, are well above this curve.

Figure 22: Density of mobile telephones by per capita GDP, 2005-2008



Notes: Both axes are in logarithms. Per capita GDP is in 2005 United States dollars at purchasing power parity. The density is the number of subscribers per 100 inhabitants. It is above 100 per cent for countries in which a sufficient number of inhabitants have several subscriptions (this is the case for the majority of OECD countries). A figure of 4.6 on the vertical axis corresponds to density of 99 per cent; a figure of 2, to a rate of 7.4 per cent (the rate noted in the DRC in 2006), and a negative figure to a rate of less than 1 per cent (this is the case for Myanmar, Ethiopia, Kiribati and Nepal). A regression of the mobile telephone density on income in logarithms, the square of income, and the population density gives an R2 of 0.65 without fixed effects. The ratio between the teledensity and per capita GDP is known in the industry as the JIPP Curve or JIPP Law. As the points corresponding to the DRC are above the regression curve, the density of mobile telephones in the DRC is above the expected rate for its level of income.

Source: World Bank, WDI.

4.11 In 2008, mobile telephone density in the DRC (around 14 per cent) corresponded to the average for a country with a per capita GDP of some US$1,400 in purchasing power parity, which is approximately the level of income in Kenya.[33] This abnormally high rate can be explained in part by the absence of any alternative since the collapse of the fixed network, as well as by the excessive cost of interconnection - see below - which obliges many users to have several SIM cards. It should therefore be considered with caution. Nonetheless, it illustrates the potential of the Congolese market when conditions are ripe for attracting international investors.

4.12 It is obvious that the rapid growth in this sector makes it the most dynamic in the national economy. Between 1998 and 2006, over US$500 million were invested in the DRC by operators in the sector. Since 2006, Tigo alone has invested over US$300 million. The sector has therefore generated turnover of over US$850 million, putting it in second place after the mining sector. In 2008, it contributed over US$160 million to the State's coffers, accounting for one third of tax revenue on its own.

4.1.4 Industrial structure and Government intervention

Leading actors

4.13 Four major operators divided up the Congolese market in 2009: Vodacom, Zain (formerly Celtel), Oasis (Tigo), and CCT (Congo China Telecommunications).

4.14 The South African operator Vodacom started to operate in the DRC in 2001 through a business partnership with CWN (Congolese Wireless Network), a subsidiary of African Wireless, a

[33] Kenya, however, also has a density that exceeds the average for its level of income.

United States company. In 1999, CWN launched the first mobile telephone network in the DRC. In 2002, the network was relaunched under the name Vodacom after the South African operator, which has the majority holding in the business partnership, had invested US$39 million.

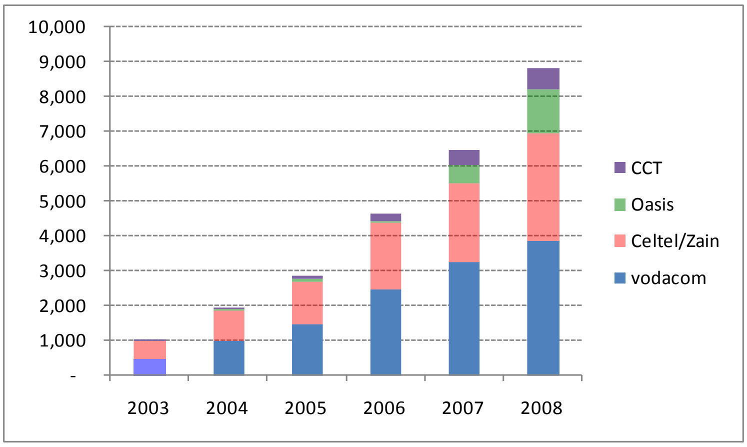
4.15 Zain DRC, known as Celtel until August 2008, was given a licence in December 1999 and one year later launched a network using Ericsson equipment in Matadi, Kinshasa and Lubumbashi, as well as in more remote areas such as Mbuji-Mayi, Likasi, Kolwezi, Kananga, Tshikapa, Boya, and Bukuasumpi. In 2002, Celtel bought the satellite operator Link Africa, which improved coverage in the interior.

4.16 The Belgian operator Oasis Télécommunications (Tigo) was given a licence in 2000 and a few months later launched a service using Siemens equipment. It was taken over by the Egyptian holding Orascom in 2003, and then by the Luxembourg operator MIC (Millicom International Cellular).

4.17 Supercell, an operator affiliated to MTN-Rwanda, was given a licence that originally covered the East of the country but was subsequently extended to the country as a whole. Seemingly for political reasons, Supercell has been unable to conclude interconnection agreements with the other operators.

4.18 The market's concentration has lessened over time (Figure 23). This has occurred at the "intensive margins", meaning the convergence of the market shares of existing operators because no new operator has entered the market. The shares of Oasis (Tigo) and CCT were close to zero in 2003 (3.1 per cent and 2 per cent, respectively) so they can almost be considered as new to the market.

Figure 23: Structure of the mobile telephone market in the DRC, 2005-2008

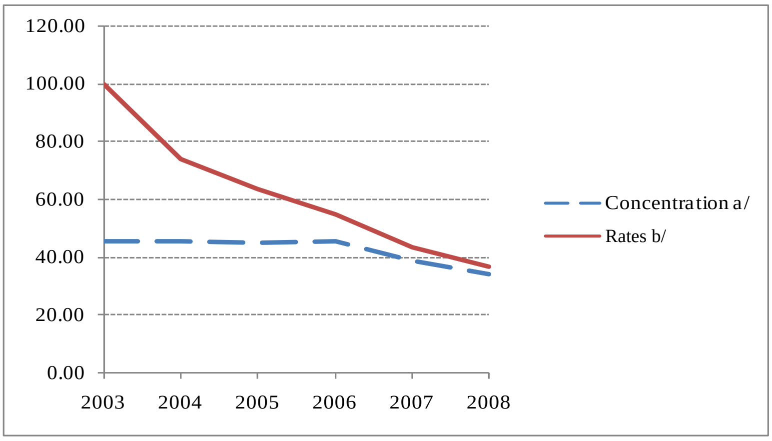


Source: Wireless Intelligence 2008.

4.19 The keener competition in the market since 2006 has enabled the decrease in rates initiated at the beginning of this period to continue (Figure 24 - the rates are measured by ARPU and the concentration using the Herfindahl index[34]).

[34] The Herfindahl index is the sum of the squares of the market shares of companies. It is widely used in anti-trust procedures to assess the extent of a company's monopoly in a market. The higher the index, the greater the concentration (and the less competitive the market).

Figure 24: **Prices and concentration in mobile telephony in the DRC, 2003-2008**



Notes: a/ Herfindahl concentration index (multiplied by 100);
b/ ARPU nominal indicator, base 100 = 2003.

Source: ITU (International Telecommunications Union) 2008 and Wireless Intelligence 2008.

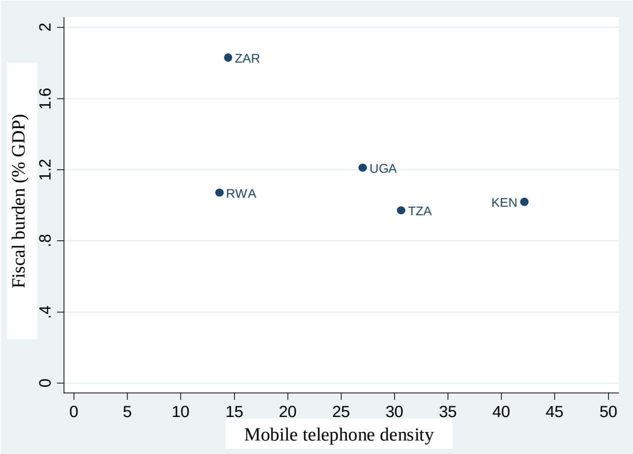
4.20 Rates have halved since 2003 and in 2008 the decrease showed no sign of slowing down. This decrease benefits users with limited purchasing power, but means a reduction in operators' profit margins and a lower return on investment. Investment has nevertheless been substantial, as indicated above. Furthermore, the sector has been badly hit by the international financial crisis, with turnover declining, according to some estimates by 30 per cent in December 2008 in comparison with December 2007. It is thus highly vulnerable.

Government intervention

4.21 The telecommunications sector is insufficiently regulated. The cost of interconnection (termination cost on mobile networks), which is regulated, is set by the Government at US$0.15/minute, an excessive amount that compels a large number of users to have several SIM cards simultaneously. The reference network envisaged in the law has not yet come into being and mobile operators have developed their own infrastructure independently. The present situation raises two problems: firstly, the random way in which frequencies are allocated reduces the space available for newcomers. The problem is not physical availability of bandwidth but rather its management; secondly, the 2002 regulatory framework is ambiguous in that it could be interpreted as giving the OCPT (or its successor) a monopoly of the *entire* transmission infrastructure, although it has proved incapable of assuming its task and private operators have set up their own infrastructure (mainly satellite links), whose legal status is complex. This legal uncertainty could prove fatal to future investors, especially in a business climate that has traditionally been subject to abrupt changes.

4.22 In April 2009, the sector's fiscal regime suddenly deteriorated when the excise taxes adopted in 2008 came into effect. These taxes, published in the Official Journal of 9 March 2009 (Decrees No. 005/CAB/MIN/PTT/2009 and No. 006/CAB/MIN/PTT/2009) increased an already heavy fiscal burden in the sector. Figure 25 shows the tax revenue imposed on the telecommunications sector, as a percentage of GDP, compared to the density of mobile telephony *before* these taxes were introduced.

Figure 25: Fiscal burden in the telecommunications sector, as a percentage of GDP, 2008



Notes: The country codes are those used in the United Nations statistical system: ZAR is the DRC, RWA Rwanda, UGA Uganda, TZA Tanzania, and KEN Kenya.

Source: ARPTC-Deloitte for the fiscal burden.

4.23 The telecommunications sector's fiscal contribution should be more or less in proportion to its development, approximated by the density, which should appear in Figure 25 as an alignment of the dots along a straight line starting at the beginning. This is not the case because the dots are dispersed throughout the figure. This means that taxation varies considerably among the five countries considered. At one extreme is Kenya, where the telecommunications sector is highly developed (in 2008, density was 42 per cent) and taxation light (1.02 per cent of GDP); while at the other there is the DRC, with a sector that is still relatively little developed (density of 14 per cent) and very high taxation (1.83 per cent of GDP).

4.24 This observation should be qualified. In fact, it has been seen that although it is not very developed in absolute terms, the telecommunications sector in the DRC is highly developed in comparison with per capita income. It is therefore logical that, to a certain extent, the sector should make a greater contribution to tax revenue than elsewhere. In other words, the DRC has fewer alternative bases of taxation than a more developed economy such as Kenya. It nevertheless remains true that the fiscal burden on the sector was already heavy *before* the new excise taxes came into effect.

4.25 The new taxes are extremely high. For example, Tigo had to deal with an unexpected tax increase of US$11 million in 2009, bringing its return on capital down to virtually zero. In combination with the crisis, this fiscal blow virtually brought all investment to a halt. In fact, in such situations, it is not only the cost of the fiscal measure that penalizes investment, but above all the message it conveys: private revenue generated by taking risks and by efficient management can at any time be taken unawares by unexpected taxes.

4.1.5 **Recommendations**

Strategic choices

4.26 The DRC's authorities have to make a fundamental strategic choice between using the sector as a preferential source of tax revenue or as a showcase for improving the investment climate.

4.27 As well as this choice, one of the urgent issues which the authorities must confront concerns the terms for the reorganization of the OCPT. The public operator is virtually bankrupt, highly indebted and with no physical capital. Personnel are well in excess of requirements (against all logic, there has been a sharp increase since 2006) and does not have the competence required. The crisis is so far-reaching that it is difficult to envisage a PPP without first agreeing on a management contract accompanied by a clear mandate for reorganization, a negotiated solution for the debts, and a dynamic redundancy plan.

Priorities

4.28 The priorities for Government action in the telecommunications sector, summarized in the action matrix, are clear:

- Adoption of a legal and regulatory framework consistent with international best practice;
- Reorganization of the OCPT and RENATELSAT, with the adoption of a management contract and a PPP for operation of the existing infrastructure;
- Development of a high-speed national network.

4.29 In addition, the experience in West Africa, described in a recent World Bank document (Kessides et al. 2009) suggests that reform of the telecommunications sector would benefit from a regional design (supranational) rather than a national one. Operators, like the physical networks, cross borders. Regulation of the telecommunications sector is a technical matter and requires skills that are rarely available in LDCs. The danger of private interests taking over regulation or, on the contrary, of private earnings being taken over by a predatory State, is always present at the national level. All these problems are even more acute at the national level than at the supranational (regional) level, suggesting that substantial benefits could be generated by following a regional approach. Moreover, the problems raised by the regulation and supervision of the telecommunications sector are broadly the same in all countries. Closer cooperation between the DRC and its partners in COMESA or with EAC with a view to a regional approach to regulation of the sector and the introduction of high-speed networks could provide an innovative response to the current problems.

4.2 TRANSPORT

4.2.1 Legal and Regulatory framework

4.30 The responsibilities of the various Government agencies for the supervision and organization of the transport sector are defined in the new Constitution, which came into force in February 2006. Maritime and river navigation, air traffic, rail transport and the national highway network are all the responsibility of the central Government alone.

4.31 Four Ministries are involved: the Ministry of Transport and Roads, the Ministry of State-owned Enterprises, and the Ministry of Infrastructure, Public Works and Reconstruction and Ministry of Rural Development for agricultural access roads. Their respective areas of competence are not clearly defined. For example, the Ministry of State-owned Enterprises and the Ministry of Transport share responsibility for supervising State-owned enterprises in the transport sector. This ambiguous definition of responsibilities causes imbalances in relations between the supervisory authority and the State-owned enterprises, to the advantage of the latter, which control substantial flows of finance despite most of them being virtually bankrupt. However, the ongoing process of transforming State enterprises seeks to correct this situation, by maintaining supervision of State enterprises by a single unit, while preserving the normative authority of the Ministry of Transport and Communications over all the institutions in the sector, both public and private

4.2.2 National infrastructure

4.32 At the present time, many parts of the country are not accessible. Out of the ten provincial principal towns, only two (Matadi and Bandundu) are linked to the capital by a sealed or beaten earth road, two only by water (Kisangani and Mbandaka) and six solely by air (Kananga, Mbuji-Mayi, Lubumbashi, Kindu, Goma, Bukavu et Kisangani, . The Congo River is the country's backbone and the highway and railway network is mainly found around the river.

Highway infrastructure

4.33 The country's road network is in an extremely bad state of repair following years of negligence and armed conflict. In theory, it comprises 58,385 km. of national roads, 86,615 km. of rural roads, and 7,400 km. of urban roads. According to estimates, only 5 per cent of the 58,000 km. of national roads is sealed. Although there is little reliable detailed information, a large proportion of the road network is known for the poor state and need to be repaired. The two main highways on the national road network are the East-West road (linking the port of Matadi to Lubumbashi via Kinshasa) and the North-South road (linking Lubumbashi to Goma and Bukavu to Kisangani). The road between Matadi and Kinshasa was recently repaired and there are ambitious projects to rebuild and seal most of the East-West and North-South corridors, with considerable support from several donors, including China.

4.34 Roads are the preferred mode of transport for agricultural products and domestic freight in general, although domestic road freight services have so far remained under-developed.

Railway infrastructure

4.35 The SNCC network is mainly located in the South-East of the country and in theory covers 3,641 km. It is part of the only cross-border railway network in sub-Saharan Africa. Interconnection with the Zambian network allows the Katanga mining basin access to the ports of Durban and Dar es Salaam. Currently, traffic on the SNCC network (some 200 million tonnes/km. in 2009) is around one tenth of that in the 1970s. Due to a systematic lack of upkeep and rehabilitation work, exascerbated by political instability in the recent decades, the SNCC network is today no longer able to fulfil its previous role as an export canal for copper. The most important branch of this network links Kolwezi, near the Zambian border, to the city of Kananga and further on to the West at Ilebo. The section between Ilebo and Kinshasa is, however, missing, so all traffic going through this area has to go by road or by river. The section between Sakania and Kolwezi is particularly important because it should be the preferred choice for copper exports leaving the DRC for the port at Durban. Copper, however, is transported principally by road because of the discriminatory rates charged by the Zambian rail operator for Congolese copper. Another branch linking the mines of Kisenge in the Katanga province to Lobito on the Angolan border could become an alternative export route for copper via the port of Lobito in Angola, once the rebuilding work under way on the railway at Benguela on the Congolese side is completed. The SNCC network is in a bad state, which limits the speed to 10 to 35 km/hour. Because of the lack of intermodal competition with the road network, the cost of rail freight is also high, US$0.15per tonne/km., almost three times the rate applied elsewhere in southern Africa.

4.36 The Matadi-Kinshasa line is wholly operated by ONATRA. This is a single-track line with road access at four main junctions. Originally constructed between 1890 and 1898, this line was partially rehabilitated in the 1980s. Despite this, the rail itself is in an acceptable state but the running surface is in a state of advanced deterioration. Rail could be the preferred mode of transport for exports of timber and other non-perishable goods and for imports going to Kinshasa. Rail traffic has fallen off in recent years, however, because of the poor quality of the service provided and ever keener intermodal competition following the recent rehabilitation of the parallel road corridor. Lastly, the 1,026 km. narrow gauge line at Uélés is not in operation.

River, maritime and air infrastructure

4.37 The Congo River is an important mode of transportation for the North-West of the country, but improvements are needed to make better use of the service. The DRC has 15,000 km. of navigable stretches on the Congo River and its tributaries linking Kinshasa to Kisangani in the interior. During the colonial period, barges were widely used for river transport. Today, it is the main mode of transport for Congo's exports of timber products to Kinshasa, where transport by road or rail takes over for the last leg of the journey down to Matadi. At a cost of US$ 0.05 per tonne/km., the river is a highly competitive mode of transport. Long stretches of the river are not navigable, however, for four months during the dry season because there is no dredging. The lack of sufficient investment in navigation aids and port facilities along the river also makes navigation difficult. The River could be used more intensively to carry agricultural products from Equateur province in the North-West following the prior development of a network of rural roads in this region.

4.38 The port of Matadi plays a key role in the national economy and is a major bottleneck for trade. Its capacity, as a feeder port, is 2.5 million tonnes annually, but only 2 million tonnes of this capacity is used at present. The port is limited physically both by its total freight capacity and by the depth of the River, where the draught is only 6.5 metres. Matadi can no longer be a direct port of call for large vessels and goods have to be transhipped oonto smaller vessels from dispersal ports. Container handling at Matadi suffers from long delays, around 24 days, which increases the cost of using the port. The situation at the port of Matadi imposes high additional costs for the country's imports and currently limits the volume of timber that can be exported from the DRC to 300,000 m^3.

4.39 The DRC also depends on other regional ports, with Matadi only playing an important role for the South-West part of the country. Exports from Katanga and the Eastern region usually go via Durban and, to a lesser extent, Dar es Salaam or Mombasa. The use of Dar es Salaam is limited in practice by the discriminatory rates applied by the Zambian concessionaire. As mentioned above, the rebuilding of the Benguela railway in Angola will also open up access to the port of Lobito in Angola.

4.40 Lastly, the DRC has 270 air fields, public and private, including four international airports - Kinshasa, Lubumbashi, Kisangani, and Goma.

4.2.3 Actors

4.41 The Congolese transport sector inherited a system composed of monopolies in which competition really had no place. As the traditional State sector actors declined, however, a sector, which is largely informal gradually developed in practically all modes of transport and competition has slowly emerged, without any hard and fast rules.

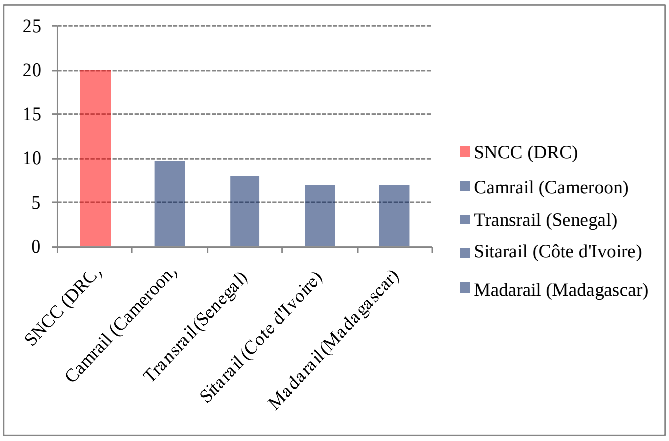
Public sector

4.42 Maintenance of the road network is the responsibility of the ODR (*Office des Routes)*, the OVD (*Office des Voiries et Drainages*) and the DVDA (*Direction des Voies de Desserte Agricole*). ONATRA (*Office National des Transports*) operates the sea ports and provides river and rail transport services. t. RVA controls air traffic and airport management, and the RVF and the RVM, respectively, supervise dredging and maintenance of navigable rivers, and the placing of beacons on the section of the Congo between Matadi and the ocean. The main State-owned enterprises providing services in the rail transport sector are the SNCC (*Société nationale des Chemins de fer du*

Congo), the CFU (*Chemin de Fer des Uélés*) and the CFMK (*Chemin de Fer Matadi-Kinshasa*). The distinction between regulatory agencies and suppliers of services is not clearly defined, so both ONATRA and CFMK operate river transport services. Overall, State-owned enterprises in the transport sector generate turnover of US$300 million, or 2.5 to 5 per cent of GDP, according to estimates.

4.43 The rates charged for rail transport are unattractive - particularly in view of the quality of the service - and their effect is to push an excessive proportion of transport on to the highway network, with the overloading and dilapidation of the surface that this implies (Figure 26).

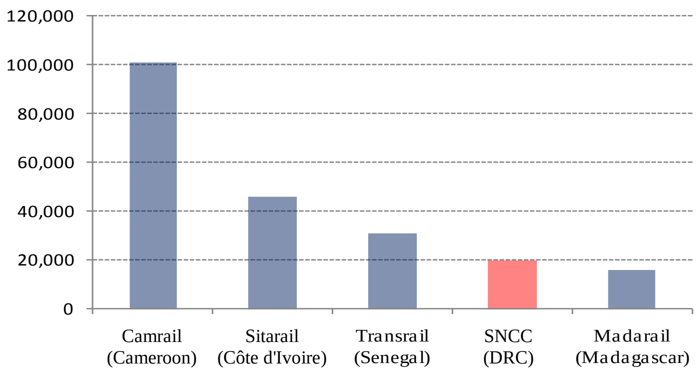
Figure 26: Comparison of rates for rail transport, in cents per tonne/km.



Source: World Bank 2009

4.44 These unattractive rates are related to the excessive level of fixed costs. This, in turn, is attributable to two factors: the first is the sub-optimal use of capital by the SNCC. (Figure 27)

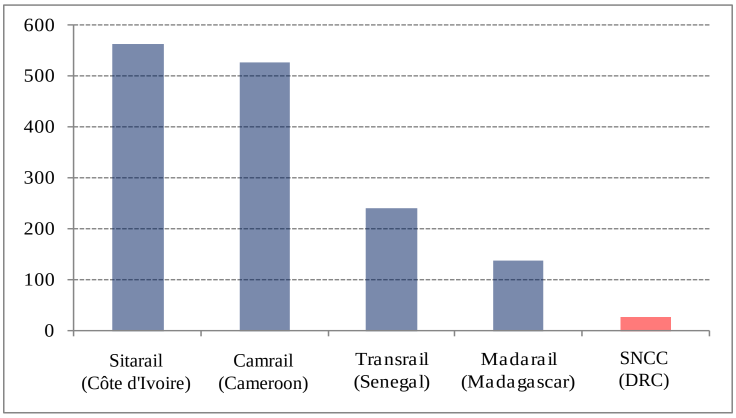
Figure 27: Revenue per km. on routes in operation, 2008, in United States dollars



Source: World Bank 2009

4.45 The second is the excessive number of employees, as shown by the low level of labour productivity. (Figure 28)

Figure 28: Comparison of labour productivity, 2008



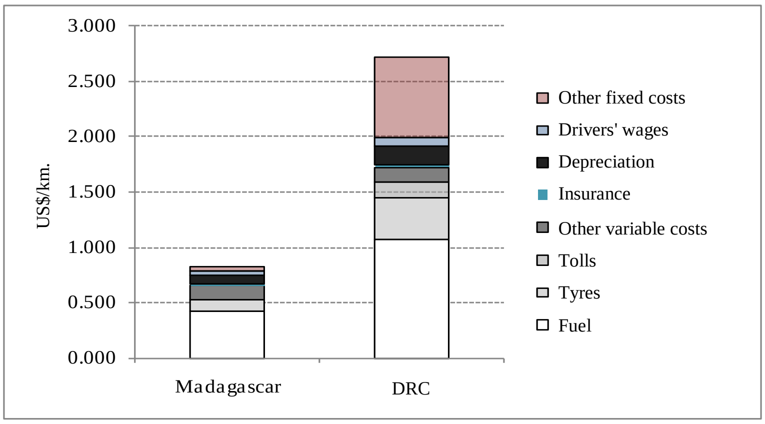
Note: The vertical axis measures '000 tonne/km. per employee.
Source: World Bank 2009

4.46 As was seen in Chapter 3 of this report, the same remarks apply to the other operators in the public sector, whose rates are generally very high - even by the standards of the continent - and all of which need reorganization and slimming down, or even liquidation. Most of them siphon off large sums from Government funds while at the same time controlling substantial flows of finance that are used without any controls.

Private sector

4.47 **Road transport.** A large number of small companies mainly operating in the informal sector provide road transport and engage in pitiless competition, frequently overloading their trucks. Road transport costs are generally very high. They vary, but may go up to US$0.15 per tonne/km., which is higher than the usual rate in Central Africa of US$0.13 per tonne/km. and more than three times that of US$0.05 per tonne/km. in southern Africa. The figure below compares indicative freight costs in the DRC and in Madagascar for a 30-tonne truck. It can be seen that, even in comparison with Madagascar, where freight rates are already very high in comparison with the major East African corridors - the DRC stands out for its excessive rates.

Figure 29: Comparison of transport costs, DRC and. Madagascar, USD per vehicle/km.



Note: Fixed costs evaluated on the basis of 100 km./day for a 30-tonne truck.
Source: World Bank 2007 for Madagascar, calculations by the mission.

4.48 **River** transport**.** The majority of river transport is provided by private operators including many informal operators. In 2007, ONATRA recorded 240,000 tonnes of freight and 221,000 passengers, mainly between Kinshasa and Kisangani. The true figure is probably well above 1 million tonnes of freight.

4.49 **Air transport.** There are 50 private aviation companies in the DRC, carrying domestic traffic of around 1 million passengers and 280,000 tonnes of freight in 2008. The lack of concentration in this market reflects the absence of obstacles to entry into the air transport sector, itself the result of non-compliance with existing regulation. The majority of these companies have not been certified by an accredited source, and their reliability is uneven. Some of the international traffic at Kinshasa and Lubumbashi airports is in fact domestic traffic avoiding the domestic airlines for safety reasons.

4.2.4 Recommendations

Strategic choices

4.50 Taking into account the distances between key production sectors and their relation to the country's main infrastructure links, it is possible to identify the major economic corridors on which the country's future development depends.

Table 9: Key corridors and economic sectors in the DRC

	Agriculture	Forestry	Mining	Integrated
Internal corridors				
(1) Matadi-Kinshasa-Lubumbashi (road and rail)	✓			✓
(2) Kisangani-Kinshasa (river)	✓	✓		
(3) Lubumbashi-Goma-Kisangani (road)	✓			✓
External corridors				
(1) Kinshasa-Brazzaville-Pointe Noire (road and rail)		✓		
(2) Lubumbashi-Durban (road and rail)			✓	
(3) Lubumbashi-Dar es Salaam (rail)			✓	
(4) Lubumbashi-Lobito (rail)			✓	

4.51 Three internal corridors, composing a triangle linking the three major cities, stand out. The first links Matadi to Lubumbashi via Kinshasa by road with some sections by rail. The second links Kinshasa to Kisangani by river. Lastly, the third goes from Lubumbashi up north towards to Goma and then branches off to reach Kisangani.

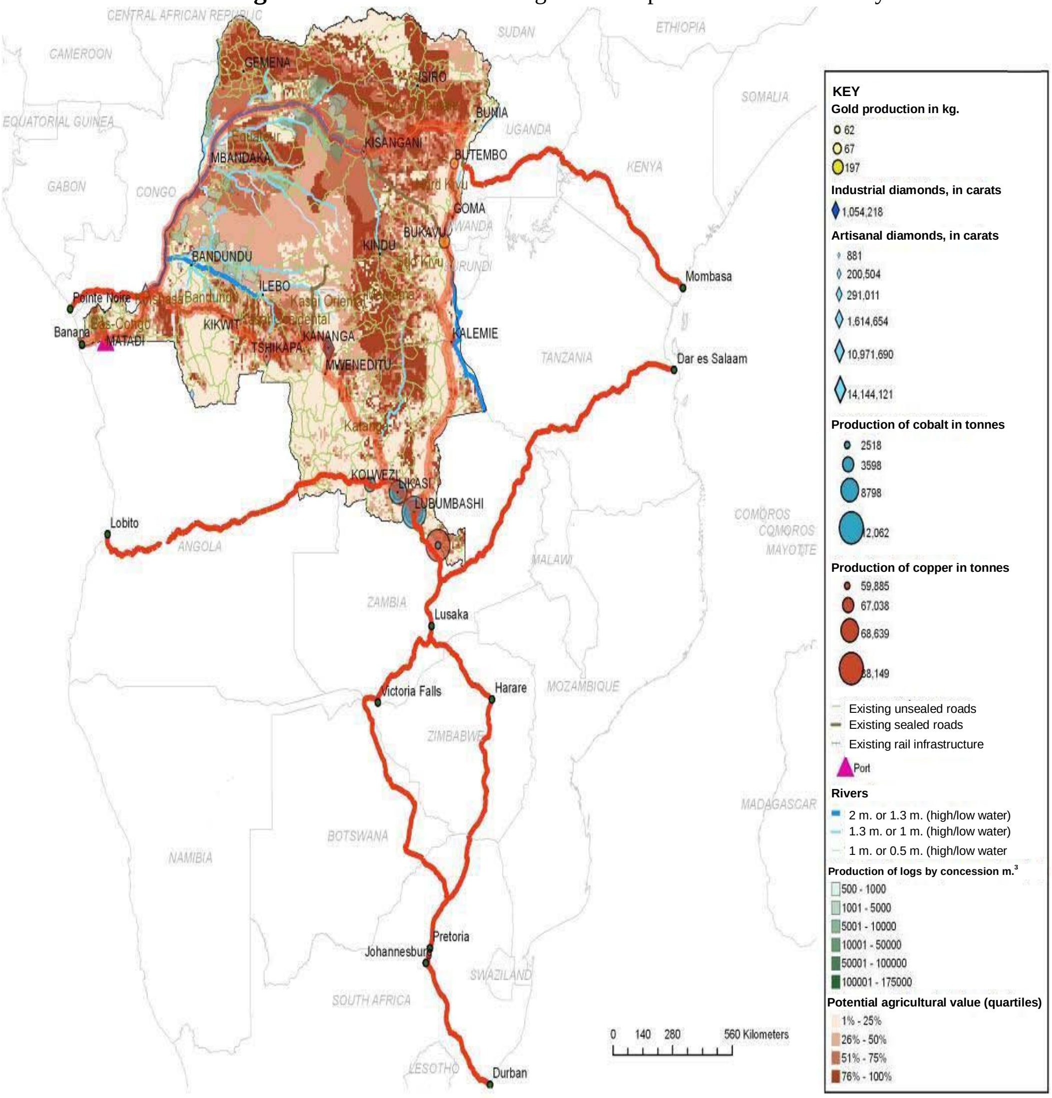
4.52 The Matadi-Kinshasa-Lubumbashi corridor plays a major role in international trade and could also help to boost agricultural production. The section from Matadi to Kinshasa is the main route for the transport of imports to Kinshasa and for legal exports of structural timber from the DRC. The Kinshasa to Lubumbashi stretch is of little importance to the mining sector in Katanga, which exports by other routes. The creation of rural roads along this corridor, however, could help to boost agricultural production in the interior in order to supply the large urban markets in Kinshasa and Lubumbashi. In addition, the existence of a route in a good state of repair linking the country's two largest cities is also important from the point of view of integrating the country.

4.53 The Kinshasa-Kisangani corridor is crucial for the forest sector and could also play an important role for agriculture. This corridor is a natural one carved out by the Congo River basin. As mentioned above, it is a key route for legal exports of structural timber and could become an important corridor for domestic agricultural trade by linking the centre for demand in Kinshasa to the fertile region in Equateur in the North-West. From the infrastructure point of view, the main problem is dredging in order to extend the period of navigability, as well as some additional investment in navigation aids and the River's port facilities. The creation of rural roads in zones with the greatest agricultural potential would give the River even greater importance as a route.

4.54 The Lubumbashi-Goma-Kisangani corridor is mainly useful in terms of integrating the country. Combined with the other two corridors, it could form a heavy traffic infrastructure triangle linking the cities of Kinshasa, Lubumbashi and Kisangani. With the addition of rural roads, this corridor would also help to boost agricultural production in the East by setting up links to local markets.

4.55 Four principal external corridors link the South and East of the country to large international ports. The first links Kinshasa (via Brazzaville) to Pointe Noire, with the eventual building of a bridge between the two capitals. This would potentially give Kinshasa direct access by land to a deep-water port, provided that the road, rail and port services in the neighbouring Republic of the Congo are rehabilitated and upgraded. The second external corridor is the road and rail corridor linking Lubumbashi to Durban (South Africa), which today is the main route for exports of copper and cobalt from the DRC. The third external corridor links Lubumbashi to Dar es Salaam (Tanzania) by road and rail, giving an alternative to Durban for exports. This corridor is under-used, however, because of the discriminatory rates imposed by the Zambian railway concessionaire. Lastly, the fourth external corridor links Lubumbashi to Lobito (Angola) and will probably be used once the rebuilding of the Benguela railway is completed.

Figure 30: Overview of the regional transport corridors utilized by the DRC



4.56 In 2009, the World Bank conducted a study (see World Bank 2009) to determine officially the priorities for investment in the transport infrastructure. The methodology is described in Box 5. Such studies usually reach the conclusion that investment in infrastructure is more profitable close to markets - urban and industrial centres - than in remote areas. This is because of two aspects of the methodology: (i) a constant multiplier coefficient will give a greater value to activities generated in areas where activity is already dense (the multiplier applies to a broader basis); and (ii) an upstream-downstream system in which the products of dispersed agriculture are gradually assembled along increasingly dense transport routes converging at an urban centre, investment close to the urban centre serves all the farmers upstream, but as one moves further upstream, the same investment is increasingly less useful to producers (the last kilometre only serving the last farmer). The methodology will therefore also result in conclusions that benefit convergence rather than dispersion of investment. The conclusions have to be qualified using other criteria, for example, social criteria.

4.57 In this particular case, the IRR[35] is highest (80 per cent) for the Matadi-Kinshasa railway. The second highest rate (36 per cent) is for rehabilitation of the Kinshasa-Kisangani river corridor, followed by rehabilitation of the port of Matadi (13 per cent). Investment in road infrastructure between Kinshasa and Lubumbashi only has an IRR of 6 per cent, while rehabilitation of rural roads is 3 per cent. It is however extremely important to take the determinants of these results into account. In a country where rural population density is low and agricultural production has been comprehensively disoriented by years of conflict, it is hardly surprising that average elasticity has very few knock-on effects on agricultural production that has practically fallen to zero. It is nevertheless possible that the impact of ending isolation on the incentives to be created is heterogenous, subject to a threshold effect, and different in terms of the time - what it is sought to measure - and space - what is actually measured - dimensions of the data. In addition, the rehabilitation of major highways rather than rural roads may create situations in which the import of food products turns out to be less costly than domestic production because the upgrading of the major highways has lowered transport costs while the cost of transport from the farm to the road remains excessive. Models of the profitability of infrastructure calculated in the way described in Box 4 should therefore act as an aid to decision-making but should not be the only aspects to be borne in mind.

Box 5: A spatial approach to aid decision-making in relation to transport infrastructure

The methodology used to aid decision-making in relation to transport infrastructure consists of several stages which combine the arrangement of data, econometric estimates, and simulation.

The first stage is to determine the site of economic activities in the territory, by type of activity, using satellite imaging. For agriculture, 20 types of production are taken into account and localizing them is done using resolution of 9 x 9 km. The value of production is then calculated using the price data available.

The second stage consists of evaluating the cost of transporting production to the closest markets, on the basis of hypotheses concerning production outlets (e.g. the closest city with over 250,000 inhabitants). These transport costs are based on the mode of transport available between each production site and the market: carried on the back if there is no road, truck on a rural road, truck on a national highway, navigable route, etc.

The third stage is based on the hypothesis according to which the value of production depends, *inter alia*, on access to the market. An econometric equation enables the elasticity of production to the cost of transport to be estimated by using the spatial variation of production and transport costs over the whole territory (with appropriate control variables). At this stage, the sample is all the production sites and their transport costs (21,436 observations). The estimated elasticity is around 0.5, significant to 1 per cent. The absence of investment since independence allows the presence of transport infrastructure to be considered as predetermined.

Lastly, the elasticities estimated in the preceding stage are used to simulate the impact of a particular transport infrastructure envisaged on the value of production in those sites where the cost of transport would be affected by the new infrastructure. The sum of all increases in production (or the value of production) generated by the new infrastructure gives its social benefit, which can then be related to its cost.

[35] The IRR of a project is the maximum interest rate at which the project will be profitable if it is financed by a loan.

Priorities

4.58 The reorganization of State-owned enterprises in the public sector is an absolute priority. It requires the definition of forms of participation by the private sector, as well as redundancy plans called for by the need for sweeping job cuts. In the longer term, the private sector should be directly involved in managing the transport infrastructure, especially airports, ports and rail networks.

4.59 Operational maintenance systems need to be set up for roads and navigable routes. This calls for a clear definition and attribution of responsibilities as well as sufficient financial resources, in accordance with the PMURR. The problem of road maintenance is particularly acute in the case of rural roads. In Africa, these are often maintained by large plantations which depend on them for access to their inputs and markets. In the DRC, the collapse of commercial agriculture, first of all as a result of "Zairianization" and then because of the war, led to maintenance of rural roads being abandoned. Some measures have been taken, but these have been limited and face many problems (Box below). Beyond these experiences, the creation and implementation in 2009 of a National Road Maintenance Fund (*FONER*) is an important step for the DRC. These efforts should be continued so as to guarantee adequate and efficient management of this fund for stable and continuous financing of road maintance activities.

Box 6: Rehabilitation of rural roads: wastage and lack of commitment

Welthungerhilfe (German Agro Action), a German NGO, has implemented a project to rehabilitate a rural road network in Kivu and Ituri, financed by the European Union, with the principal aim of ending the ongoing isolation of rural areas. It tried to set up a system for the management of the routes rehabilitated so as to extend their life span, but came up against lack of cooperation on the part of users, as well as lack of political will by the administrative authorities on the spot.

For example, the wet-season barriers installed on the rehabilitated roads in 2002 have never been respected by users, not even by MONUC, which uses the roads with all sorts of vehicles and heavy equipment. It was not possible to put in place any means of ensuring respect for the rules. Their transgression is not followed up and none of the 100 complaints made against transgressors ended in a penalty, and some of the poles set up on the road during the rainy season were quite simply removed.

A road toll was introduced in North Kivu with the following rates: US$25/truck, US$12/van, and US$6/automobile. The tolls are indeed collected and bring in some US$2,000 to US$3,000 each month, administered by elected local committees. They are supposed to be used to pay for a road-mender per kilometre and one foreman for every ten road-menders. The local authorities, however, have so far not lent any support to this initiative. Worse still, on the Saké-Masisi-Walikalé route, the revenue intended to finance road maintenance according to the aforementioned formula in fact ended up in the provincial governorate, and has not returned.

Lastly, it has so far proved impossible to introduce regulations limiting the weight of vehicles on certain routes owing to lack of support from the political authorities on the spot.

4.60 Even though the profitability simulations give a favourable rating to rehabilitation of Matadi, it would probably be more to the DRC's advantage to have direct land access to a deep-water port. Imports going to the DRC are usually brought to Matadi after having been transhipped at Pointe Noire, in the neighbouring Republic of the Congo. Pointe Noire is a deep-water port and can therefore receive large vessels that cannot get as far as Matadi. In principle, direct transfer of imports for the DRC by land via the Republic of the Congo could be financially beneficial because it would do away with the transhipment fees between Pointe Noire and Matadi. This possibility has for the time being been rejected because of the poor quality of service by the Congolese rail operator CFCO and the wholesale deterioration of the road corridor between Brazzaville and Pointe Noire. Nevertheless, efforts are being made in the Republic of the Congo to rebuild the road corridor and to grant concessions for the railway and for the container terminal at the port. Once this has been done, the Kinshasa-Pointe Noire road could become of economic interest for the DRC's trade, especially if a road and rail bridge is built to link Brazzaville and Kinshasa. It raises the problem, however, of compensation for the losses to be incurred by Bas-Congo Province, for which the port of Matadi is an important source of income.

4.61 In the meantime, the DRC is envisaging the possibility of building its own modern deep-water port at Banana. This would mean significant expansion of a small port in Bas-Congo Province, situated close to the mouth of the river. According to the recent feasibility studies undertaken by Congolese and Korean experts, it is possible to create this publication for four years. . Once built, it is by no means certain that it could receive the volume of traffic needed to become a direct port of call for major shipping lines, or that it would continue to use transhipment services from Pointe Noire.

4.3 ENERGY

4.3.1 Domestic supply

4.62 The energy sector is globally under-developed, even though abundant natural resources could permit the development of hydraulic power at low cost capable of meeting domestic demand, but also with considerable export potential to meet external demand.

4.63 Energy production only represents 3 per cent of the energy potential. While the potential is estimated to be around 100,000 MW (the largest in Africa), production capacity is currently 2,459 MW (although actual production is not even half this figure because a large part of the production capacity is not in working order). The SNEL's electricity generating facilities comprise 14 hydroelectric power plants and 24 small thermal power plants, with 2,443 MW capacity, of which 2,417MW from hydroelectric plants and 42MW from thermal plants. The two most important hydroelectric power plants are Inga I (351 MW) and Inga II (1,424 MW). The facilities are distributed geographically in three interconnected networks (West, South, East), three separate networks and 28 autonomous centres. The remaining production comes from independent firms producing to meet their own needs. Two other projects are also planned: Inga III (3,800 MW) and Inga IV (Grand Inga: 35,000 MW), together with several smaller projects in the Eastern part of the country.

4.64 The low level of access and unreliable supplies in the energy sector are a major constraint on economic and social development. The system as a whole is in a state of dilapidation following many years of negligence and inadequate maintenance. (Table 10)

Table 10: Performance of the Congolese energy sector

Current capacity (operable)	1,200 MW
Production	10,500 GWh
Exports	2 TWh
Distribution losses	60%
Coverage (access)	6%

4.65 Energy supplies are subject to numerous power cuts (some 180 a year). The facilities are maintained and repaired on an ad hoc basis in response to emergencies. A great deal of power is lost in the transport and distribution systems, around 40 per cent in 2008. Lastly, only 6 per cent of households have access to electricity, although the rate is 40 per cent in Kinshasa.

4.3.2 Actors

4.66 **Public sector.** SNEL is a parastatal, vertically integrated company that provides services to some 400,000 users (approximately 300,000 of which are in Kinshasa). It appears as a weak institution, however, as far as all its operational aspects are concerned. In addition to the malfunctioning in terms of quality of service mentioned above, its financial situation greatly deteriorated when US$267 million of its capital was cut back in 2005 (following a series of losses), operating losses were US$82 million and its debt amounts to US$734 million, corresponding to over three years' revenue, despite a totally inadequate level of expenditure on maintenance and repair.

4.67 There are many reasons for SNEL's poor performance. The first is the absence of Government regulation of SNEL's business management, which can be seen from the failure to suppress the generalized fraud in invoicing and payment, meaning that 40 per cent of bills go unpaid, with the State being one of the biggest offenders. Furthermore, the pricing policy does not reflect the normal cost structure of the enterprise. Next, there is a policy of not disconnecting consumers that do not pay their bills, whether in the Government or private sector or private individuals, together with a human resources management policy that does not respond to the objectives of productivity and good governance. Lastly, the centralized structure does not allow the whole country to be efficiently managed from Kinshasa because of communications problems.

4.68 **Donors.** The World Bank (IDA), the EIB, and the AfDB are financing the rehabilitation of electricity supply facilities. The two major projects receiving IDA financing are (i) the project to rehabilitate and upgrade the existing distribution network of 2,300 km. in the DRC to serve Katanga and integration in the SAPP network, as well as the installation of a fibre optic telecommunications system; and (ii) the project to rehabilitate the hydraulic power plants Inga 1 and 2 (PMEDE). These should raise the quality of the electricity supply in the DRC and increase export capacity to SAPP countries. In the short and medium terms, it is expected that upgrading Inga 1 and 2 will give an increase of 600 MW in available production capacity over the period 2010-2013. Currently, Inga 1 and 2 produce 700 MW of capacity (compared to 1,700 theoretically available), so the project will enable capacity to rise from 700 MW to 1,300 MW.

4.69 **Private sector.** There is no distribution by private companies, but a few large companies generate energy to meet some of their own needs and many industrialists have developed their own emergency generating capacity to remedy the shortages in supplies from the SNEL. Businesses are greatly handicapped by frequent power cuts, despite relatively high prices, although some sectors (mining, for example) receive supplies at very low cost. The differences in rates applicable to businesses depend in part on their size and their negotiating capacity. In regions where the supply of hydroelectricity is particularly scarce and alternative sources of power or diesel fuel are costly, the development of SMEs is badly affected.

4.3.3 Opportunities

4.70 The SAPP has a capacity deficit, despite a certain downturn in demand for energy following the crisis. For its members, the prospect of increasing the output and quality of supplies of hydroelectricity in the DRC makes import of energy from the DRC extremely attractive in the medium or long term. Currently, businesses state that the cost of energy in the DRC is already three to ten times lower than in neighbouring countries where they can only turn to the SAPP network.

4.71 The potential for a large volume of exports will be achieved once Inga III or Inga IV (Grand Inga) has been developed and distribution capacity greatly increased. These projects should permit an increase in exports from 2 TWh to 20 TWh with Inga III, and 50 TWh with Inga IV. It is estimated that, with Inga III, the net revenue from exports could reach US$1 billion. In addition, these export earnings would be less volatile than mining revenue. The development of production capacity will allow many clients awaiting connection to be served and will increase the rate of access to electricity, which is at present one of the lowest in Africa, despite the existence of substantial effective demand.

4.3.4 Recommendations

Strategic choices

4.72 The specific policy objectives to be attained in the electricity sector have been defined as follows:

- Institutional reform: reform the energy sector and SNEL by reorganizing SNEL on a commercial basis and by reaffirming the option of liberalizing the market so as to allow the private sector to become involved in production and, eventually, in distribution, with clear separation of the roles of the State, SNEL, and private operators;
- access to the service: gradually and equitably meet national energy needs in order to facilitate the exploitation and processing of the country's other natural resources and reduce poverty;
- export and regional integration: export part of energy output through interconnected networks, energy pools and subregional organizations and use the earnings from the export of energy to develop other infrastructure in the DRC.

4.73 The Government is envisaging full liberalization of the energy sector in the medium term and has therefore prepared a document compiling best practices in governance and regulation. The energy policy document contains the following principles:

- Introduction of competition among private sector operators, which would eventually be able to distribute directly to consumers;
- creation of a national regulator;
- establishment of a National Electrification Agency;
- expand the production of energy in the current network.

4.74 In the medium term, in order to respond to needs, two separate projects to develop production have been proposed: Inga III (3,800 MW) would be developed in two stages at a cost of US$4 billion (excluding the cost of the transport and distribution network). It may require the building of a canal and a power plant, but no new dam. Grand Inga, on the other hand, requires the building of a large dam and secondary dams, but would allow production of 6,000 MW in the beginning and then 40,000 MW.

4.75 In order to expand energy production, consideration is being given to facilitating participation by the private sector. There is considerable potential, but private businessmen are facing significant financial constraints for such development. Furthermore, the institutional environment needs to be clarified and made stable so as to lessen the business risk in this sector (for example, the pricing regime, SNEL's role, etc.).

4.76 One of the major constraints on development of the energy sector is its solvency. It is vital to restore the sector's solvency in order to ensure that the investment being made is permanent, allow the mobilization of (private or public) finance, and expand access. Currently, SNEL is not a solvent borrower or counterpart, its revenue does not even cover its direct operating costs, particularly because of the payment arrears of the State and State-owned enterprises, and the Government is obliged to guarantee SNEL's debt.

Expanding access in rural areas and smaller cities

4.77 The Government is aware that, in order to expand the national rate of access to electricity by the population, considerable efforts have to be made in terms of investment in rural areas to be supplied from the network. Moreover, electrification of the country as a whole solely from the Inga plant cannot be envisaged in the immediate future because of the high cost of transport lines for the decentralized electrification of smaller cities. For these reasons, the Government has decided to give high priority to national electrification. It has been decided to set up a National Electrification Agency and a National Electrification Fund, financed, *inter alia*, by a percentage of the earnings from exporting electricity. It is planned to build micro power plants from 2015 onwards and to exploit other sources of energy available in order to increase electricity density from 6 to 45 per cent.

4.78 In order to move ahead with implementation of the energy policy in rural areas and in smaller cities (as already formulated by the Government), the following needs to be done:

- Precise and specific definition of the mechanisms, procedures and tools for public-private financing of investment in access to electricity;
- drafting of model documents for financing, preparing and following up the implementation of electricification investment projects carried out in partnership with the private sector, for example, concession documents, model private-public agreements, and model contracts between stakeholders (private businesses, the Ministry of Energy, the Rural Electrification Fund, the regulatory authority, donors, etc.);
- establishment of the terms and criteria for granting production and/or distribution licences and regulation of decentralized systems.

Priorities

4.79 External financing is required to develop the DRC's considerable electricity potential. It is also strongly recommended that there be close cooperation with electricity companies in countries belonging to SAPP and CEPGL wishing to receive supplies from the DRC. Likewise, there needs to be cooperation with regional bodies such as SADC and NEPAD, as well as with international financing institutions.

4.80 **Reform of SNEL.** As already emphasized, reform of SNEL is a key stage in developing the energy sector, but may also be a major obstacle if it is not carried out rapidly. Several actions proposed in the PSR, drawn up by the SNEL's Directorate-General in 2004, have received external financing, for example the PMURR and the PMEDE. They include the following: (1) ensuring reliable maintenance of production facilities; (2) improving internal and external communication; (3) enhancing transparency in management; (4) creating a business mindset; (5) introducing a training programme to improve internal skills; (6) organizing regular meetings to evaluate performance; (7) creating new sales and services centres for customers; (8) signing performance agreements with operational entities and evaluating them; (9) drawing up operational rules; and (10) introducing a reporting mechanism and a management chart. Another objective of the PSR was also to improve control of costs and expenditure, and to make better use of human resources (staff costs continue to rise alarmingly each year. At CDF35.4 billion in 2007, they represented over 28 per cent of the production sold).

4.81 The results expected from the PSR have only been partly achieved so far because of lack of material and financial resources and because no action has been taken to reduce the enterprise's losses and increase its financial revenue.

4.82 As part of the implementation of an institutional reform programme for the electricity sector, the Government decided to introduce management contracts as a way of managing SNEL. This choice is based on Law No. 08/008 of 7 July 2008, whose Article 2(j) defines management contracts as contracts under which the State entrusts a natural or legal person under private law with the management of a State-owned enterprise against remuneration.

4.83 The objective of SNEL's management contract is to meet its immediate operational and financial challenges, while at the same time contributing towards the strategic objectives of the electricity sector.

4.84 The public authority will have to give an international private operator/firm responsibility for building the enterprise's management capacity as follows:

- Responsibility for all the strategic aspects of SNEL's management. To achieve this, it will have to put in place a new team of managers within the enterprise, chosen on the basis of their technical competence and their experience;
- responsibility for investment programmes and their management;
- implementation of restructuring of SNEL with a view to developing PPPs.

Chapter 5 PERFORMANCE OF SECTORS DOWNSTREAM: MINING, AGRICULTURE, AND FORESTRY

5.1 MINING

5.1.1 Domestic supply

5.1 The potential for development of the DRC's mining sector is immense and covers a vast spectrum of mineral products, including amethysts, bauxite, bismuth, cadmium, cassiterite (tin ore), coal, cobalt, coltan, copper, diamonds, germanium, gold, iron, manganese, pyrochlorine, silver, tourmalines, uranium, wolframite (tungsten ore), zinc, and various precious stones. According to some estimates (to be taken with caution), the value of the assets in the Congolese subsoil is around US$24 billion. Even if these estimates prove to be optimistic, the potential is without any doubt considerable.

5.2 The Congolese mining sector is still far from having realized its potential. Until now, it has made only a marginal contribution to growth (less than one tenth of total growth in 2006, for example, whereas it has potential to account for at least one quarter of growth).

5.3 Although it is capital-intensive rather than labour-intensive, development of the mining sector could have several knock-on effects. In industrial mining, for each direct job it is estimated that there are up to four indirect jobs, each of them providing for the needs of ten dependents. It is therefore estimated that close to 200,000 people directly or indirectly depend on the industrial mining sector. In small-scale mining, which, according to estimates, employs between 500,000 and 2 million miners, each miner provides for the needs of four to five dependents. Consequently, almost 10 million Congolese potentially depend on small-scale mining. In addition, in the Eastern part of the country, over 1 million people depend on mining related transport chains for their livelihoods.

5.4 Development of the mining sector would also have a substantial fiscal impact, estimated to be between US$200 to US$400 million annually, corresponding to 20 to 40 per cent of total fiscal revenue.

5.5 Lastly, if the local economy had the capacity to respond to incentives, the mining sector could have a carry-over effect on industry upstream and downstream. Upstream, a recent study has mentioned the possible carry-over effects, *inter alia*, on transport, security, catering and cleaning services, vehicle maintenance and repair, health and security equipment, earthworks, electrical equipment, and rubber. The agricultural sector could also benefit from the demand generated by the wages paid in the mining sector, whereas several mines in Katanga at present import their food from South Africa. Downstream, prospects for local processing of the raw material could become reality because of high transport costs, but the installation of costly processing plants by the private sector depends upon an improvement in the business climate.

Legal and Regulatory framework

5.6 By law, the resources in the soil and the subsoil are owned by the State. The Mining Property Registry (*CAMI*) was established in 2003 and is responsible for giving exploration and operating permits and for keeping a national register, under the authority of the Ministry of Mining and the Ministry of Finance.

5.7 Activities in the mining sector are regulated by the Mining Code, adopted in 2002, and by the Code of Conduct for Small-Scale Operators, adopted in 2003. The purpose of the Mining Code was to promote a climate attractive to private investment - seen as the principal engine for future development of the sector - through the adoption of a clear legal framework. The Mining Code also allows the identification of zones for small-scale mining. Miners possessing a small-scale mining permit may obtain rights valid for one year. Of the six zones thus identified in Katanga, however, only one is operating at present. The rest of the small-scale mining in DRC takes place in a formal legal vacuum. This however does not mean there are no rules: customary rules do exist, though these may not be well-known to western observers. For example, sites are often designated by local land owners, village chiefs or their assemblies.

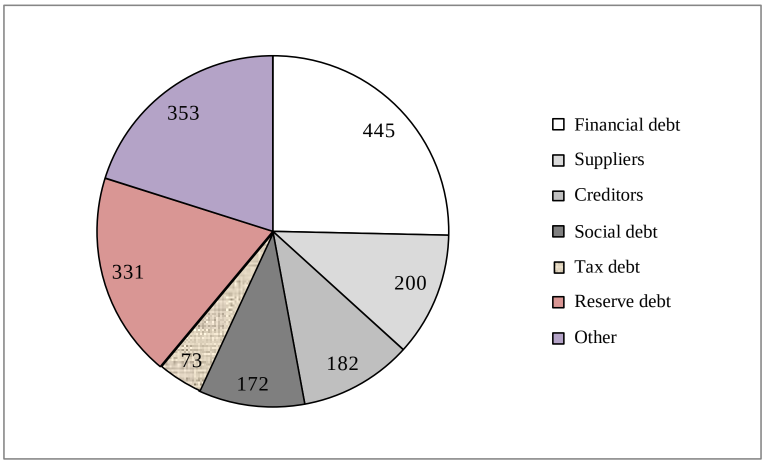
5.8 The Mining Code also fixes the sharing of tax revenue generated by the mining sector between the central authorities and the provinces. Forty per cent of royalties and the income of State mining companies, as well as 10 per cent of surface rents, must be returned to the provinces. One quarter of this sum must be used to administer the mining basin itself. In practice, this retrocession is at best irregular.

Industrial structure

5.9 The structure of the Congolese mining industry is bimodal. On one hand, in the industrial mining sector multinationals such as Freeport McMoran or First Quantum Minerals are working in the Katanga basin in parallel with medium-sized operators such as George Forrest or even smaller companies. Analysts predict a consolidation of the industrial mining sector in the DRC, with the largest operators buying out the others. On the other hand, there is a vast artisanal sector working in diamonds (almost completely informal), gold (also mostly informal), and to a lesser extent in other minerals. These two sectors have fundamentally different ways of operating.

5.10 **Industrial sector.** In the industrial mining sector, Gécamines, a State-owned enterprise, is virtually bankrupt. Founded in 1967, it was one of the main sources of foreign currency in the DRC up to 1974. Following "Zairianisation", like many other large domestic enterprises it suffered from a lack of managerial skills and became a vehicle for capital flight. Today Gécamines still serves as a source of tax revenue - for example, by sharing with the central authorities the signature bonuses from trade partnerships - despite its financial situation. It is now crushed by its debt burden (US$1.67 billion - see Figure 31) and is losing US$15 to US$20 million each month. Its labour force, numbering 12,000, bears no relation to its actual industrial activity, or to its financial capacity, because it owes up to 47 months of wage arrears to its employees.

Figure 31: **Gécamines' debt in US$**



Source: Gécamines

5.11 Gécamines has exploration permits which it does not use because it does not have the financial, managerial or industrial capacity to develop them. These are in fact speculative assets that could be exploited by the private sector.

5.12 Gécamines recently signed an agreement with the Chinese Government for the establishment of a business partnership, *Sicomines*, in which the Chinese Government owns 68 per cent of the shares and Gécamines 32 per cent. Another State-owned enterprise, OKIMO (Office des Mines d'Or de Kilo-Moto (Kilo-Moto Gold Mining Office)) has ceased industrial operations.

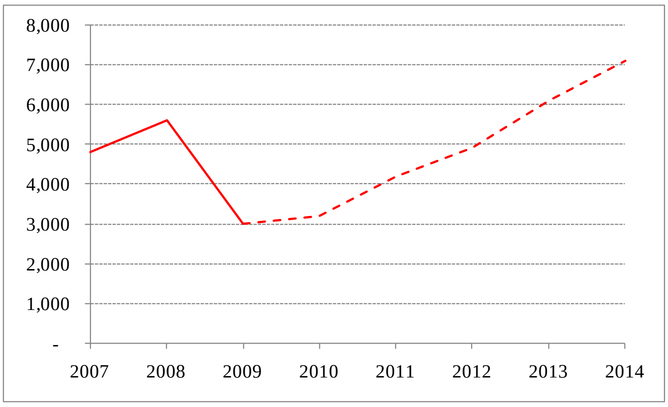
5.13 **Artisanal sector.** The production and exports of the artisanal mining sector are difficult to quantify. One third of exports of tin, tantalum and tungsten from North Kivu appears to be informal. Congolese production of diamonds is solely informal. Some 95 per cent of the DRC's exports of gold are informal and not recorded. The gold mined in the Haut-Uélé and Ituri basins ends up passive through trading posts in Butembo, Bunia and Ariwara, where it is smuggled, mainly by air, to Kampala, Kigali, Bujumbura, Kigoma and Mwanza. Gold from South Kivu ends up in Bukavu, and is then exported similarly. It subsequently changes hands and goes to Asian networks for export to markets in Dubai, India and the United Kingdom.

5.1.2 Opportunities

5.14 Despite many statements to the contrary, there is no need to be pessimistic about future trends in raw material prices. It has long been stated that these were going to fall in the long term. Affirmation of this age-old trend is the basis for many prescriptions in favour of policies to diversify exports and promote manufacturing to the detriment of the mining sector (the debate on this subject is summarized in Lederman and Maloney 2009). Recent research (Ludema et al. 2009) suggests, however, that the downward "trend" in the price of raw materials is simply a statistical illusion. The prices follow processes that are almost random, that is to say there is no trend - neither upwards nor downwards - and the best prediction is the current level. In other words, even if prices appeared to be going down up until now, the observation of past movements does not give any indication of future movements.

5.15 Despite the current crisis in raw materials markets, the outlook for the mining sector is promising. Figure 32 shows projections for the development of production of copper, cobalt, gold and diamonds up to 2014. It can be seen that after the drop in production caused by the international financial crisis there should be a return to growth. Although recovery will probably be fairly weak in industrialized countries, especially in those whose banking system is still loaded with toxic assets, growth in newly industrialized countries appears to remain strong, especially in South and South-East Asia. This has the potential to push demand and prices for commodities upwards once again.

Figure 32: Projection of copper, cobalt, gold and diamond production, 2007-2014



Source: World Bank

5.16 The figure above shows that the expected levels of production for 2014 are more than double those for 2007, reflecting optimistic estimates of global demand.

5.17 Industrial production of gold is about to resume in the Kilo-Moto basin in the districts of Haut-Uélé and Ituri, in the North of Kisangani, where major participants such as Randgold and AngloGold Ashanti have recently invested, often under business partnerships with OKIMO. Output could reach 30 to 35 tonnes of gold annually within a decade if the permits currently held are put to use, with export earnings that could reach US$1 billion.

5.1.3 Constraints

Access to resources and governance

5.18 **Permits.** In the mining sector, as in other sectors of the economy, the State's capacity to provide public goods is severely constrained by problems of governance. CAMI, for example, granted permits worth US$12, US$29 and US$32 million in 2006, 2007 and 2008 respectively. Despite a notably lower rate of payment (66.8 per cent, 41.6 per cent and 31.4 per cent over the same years), these permits should have generated US$9, US$12 and US$14 million of revenue, respectively. Although these theoretical earnings are substantial, CAMI did not pay its employees in November and December 2008. The Ministry of Mining recently took over direct control of the granting of permits. This calls into question the institutional structure established by the Mining Code of 2002, which was supposed to guarantee the independence of the permit granting process.

Box 7: The process of reviewing contracts

Some of the agreements between State-owned enterprises and the private sector were signed at a time when the Congolese State was in an extremely difficult negotiating position because of political unrest. In 2007 the DRC Government set up an inter-ministerial commission to review 61 of these contracts.

Dialogue turned out to be difficult. The national authorities noted the intransigence of certain private actors, while the latter saw the process as a new way of obtaining revenue - entry rights of US$500 million for the negotiations were mentioned. The commission's first report, published in March 2008, recommended the annulment of one third of the contracts and the renegotiation of all the others to bring them into line with the governance contract adopted by the State in February 2007.

In August 2009, four major contracts were approved (those with AngloGold Ashanti, Banro, Mwana Africa, and Gold Fields). The contract with Tenke Fungurume Mining (Freeport) was still under consideration and between Kingamyambo Musonoi Tailings and First Quantum Minerals (which had the support of the IFC and South Africa) was annulled, the reason given being that the operator had not commenced operations in time.

5.19 Of the 5,359 permits granted by CAMI up to July 2008, only 471 were operating permits, and of these only 166 were granted to private companies not in business partnerships with Government actors. This low figure is partly a reflection of the "wait-and-see" attitude of investors uncertain how the business climate will evolve, with exploration permits reflecting a form of speculation on a rise in the price of assets (like the buying of options on financial markets).

5.20 As regards the artisanal mining sector, the formal legal vacuum in which artisanal miners operate makes them vulnerable to numerous pressures exerted by local authorities, including village chiefs and armed bands in zones where these are operating.

5.21 **Taxation.** The fiscal burden on the mining sector is around 56 per cent of earnings, to which 15 to 25 per cent must generally be added in the form of informal payments. The combination of the two gives an overall rate of taxation that is close to 80 per cent, almost double the industry standard. According to some estimates, the DRC has the second highest rates of taxation of the mining sector in the world. It is likely that such a heavy fiscal burden acts as a strong disincentive to external investment, particularly when added to regulatory uncertainty and to recurrent political and military disturbances.

5.22 The total tax burden in the sector appears to be related, *inter alia*, to the proliferation of Governmental agencies with taxation powers that intervene. These include DGDA, DGRAD, the Directorate-General of Taxation, decentralized administrative bodies, as well as agencies that invoice largely superfluous services such as CEEC. The lack of coordination among these fiscal and parafiscal actors exacerbates fiscal pressure, none of those intervening having an overall vision. The *modus operandi* of fiscal and parafiscal actors often consists of identifying a problem - whether real or not - in a company's operations and imposing fiscal penalties together with a "payment note" covering up to 40 per cent of the penalties in question but payable immediately, either in cash or into a separate account. The remainder of the penalty is then negotiated downwards.

5.23 **Governance.** The DRC has been a candidate for the EITI since February 2008, and the implementing decree was signed in July 2009. Investors consider the adoption of the EITI to be a positive sign. The year 2010 will be crucial for the credibility of this commitment. The first EITI report was published in March 2010, and based on that progress the country was granted another 6 months to complete the validation process.

5.24 One indication of the problematic business climate in the DRC is the extent of legal costs incurred by mining companies. According to estimates provided by mining companies in Katanga, these costs amount to US$5 million annually. In comparison, legal costs are between US$400 and US$500,000 in Indonesia and US$200,000 in Canada.

5.25 Moreover, conflicts of interest between the central Government and provincial authorities sometimes lead to measures for which private operators pay the price. For example, 3,000 tonnes of copper exports from one of the leading operators in Katanga were temporarily banned by the provincial authorities in August 2009, seemingly with the aim of negotiating the sharing of the revenue with the central Government.

Access to labour

5.26 **Costs.** Paradoxically, labour costs are high in the DRC, whether for expatriates or local citizens, because of the very high cost of living. An expatriate manager may cost up to US$250,000 a year including benefits and charges (some 50 per cent of the total). A local employee with similar qualifications to those of an expatriate will be paid at a similar level, i.e. eight to ten times more than in Indonesia. Furthermore, Congolese labour is not very competitive according to international standards, even for unskilled workers. The main reason for the relatively high cost of labour in the DRC is the high cost of living and the need to import practically all supplies, including basics, because there is no local production. As noted above, several mines in Katanga even import food from South Africa.

5.27 **Qualifications.** In the 1960s and 1970s, the DRC had excellent vocational training schools. This intangible capital has been another victim of the country's general decline and the mining sector no longer has access to the skilled labour it needs. This helps to explain the high level of salaries for qualified locals. Investors are gradually setting up apprenticeship and training programmes, but the efforts are largely insufficient for the needs.

Access to energy

5.28 As described in Chapter 4 of this report, the problem of power shortages is very acute in the DRC, despite its great potential. A number of actors in the mining sector have directly invested in the energy sector in order to meet their own needs. For example, FQM (a company whose contract was annulled) proposed investing US$100 to US$200 million in the Inga-Katanga high voltage line and Anvil Mining is installing a plant in Lubumbashi to supply energy to Kinsevere. SNEL will own the plant and reimburse Anvil. In addition, a large number of Government investment projects, financed by donors, are under way to revive the country's power infrastructure.

Access to markets

5.29 The mining sector is particularly dependent on rail transport, which is extremely costly. As explained in Chapter 4 of this report, the Congolese rail network is in an advanced state of deterioration: of the remaining 3,641 km. of rail, half needs repairs and engines are all obsolete. Upgrading the railway would increase connectivity between the DRC and its neighbours.

5.30 The recent Chinese-Congolese cooperation project includes a large component for transport infrastructure upgrades, crucial for the mining sector which is the central concern of Chinese investors. For example, 3,215 km. of road needs to be built or repaired between Katanga and Matadi. The Sino-Congolese infrastructure package also includes three ports, 3,330 km. of sealed roads, 2,738 km. of rural roads, 550 km. of urban roads, two dams with the corresponding transmission lines, and two airports. These investments may help address some of the country's existing infrastructure constraints (see Chapter 4.2).

5.1.4 **Recommendations**

5.31 The business climate in the DRC's mining sector needs to be made visibile and stable. As in the other wealth-generating sectors, the Government has to choose between making these sectors a source of fiscal revenue or a showcase for foreign investors. The division of responsibilities and fiscal revenue between the central Government and the provinces needs to be clarified and to cease to give rise to trials of strength of which private investors are often the victims. The independent agencies set up to guarantee the impartiality of decisions on awarding important rights such as CAMI must be held accountable according to their assigned mission, and be given sustained financing and the means of fulfilling their tasks.

5.32 Links between the mining sector and the local economy need to be encouraged at all levels. The provincial Government in Katanga obliged mining companies to grow 500 ha. of maize and cassava to meet the needs of their labour force. Several mines responded positively, some even exceeding the requirements, but this effort saw its end with the onset of the financial crisis. Although it is important not to add new unpredictable administrative demands to Government intervention that is already often inept, it is important to explore possibilities for cooperation between the Government and mining companies in order to encourage corporate social responsibility. On the other hand, banning the export of unprocessed products in order to force the emergence of processing activities has generally not been successful in other contexts and should only be used with caution, here again this is because of inept or predatory Government intervention.

5.33 Lastly, access to key inputs has to be improved. Plans to upgrade the infrastructure (transport, energy, telecommunications) must systematically be discussed with actors in the mining sector, although their concerns must not be put before considerations of general interest. It is also urgent to revive training programmes at all levels.

5.2 AGRICULTURE

5.2.1 **The cornerstone of the Congolese economy**

5.34 Agriculture is the cornerstone of the Congolese economy. Its share of national revenue was up to 50 per cent in the 1990s, partly because of the collapse of other economic sectors (mining in particular). Since peace returned in 2002, its share has gradually fallen, but it still contributed 40.3 per cent of the GDP in 2006 (compared to some 13 per cent for the mining sector) and employed three quarters of the working population.

5.35 Of all sources of growth, the agricultural sector has the highest potential for poverty reduction. In the first place, it is labour-intensive. To mention just one crop, the production of Arabica requires 450 days of labour – equal to two full time workers for a year – per hectare, counting production and downstream activities. This therefore represents 20 000 full time jobs that would be created by putting 10 000 additional hectares into production. This would provide revenue for approximately 160 000 people. This scale of impact holds for palm oil and most other industrial crops. These additional jobs are created at a very low start-up cost. Secondly, agricultural income tends to be spent on locally produced goods and services (unlike the marginal income of high-income urban households), which has a considerable knock-on effect on the local economy. Lastly, growth in agricultural output lowers the price of foodstuffs thereby making "invisible transfers" to the population as a whole. It has been observed that an increase in rural income reduces urban poverty, but that the reverse is not true.[36]

5.36 The collapse of the DRC's agriculture during the conflict from 1998 to 2002 can be explained by its extreme violence and by the mass population displacements that followed. If international experience is any guide, the restoration of security and the return of refugees to their homes will enable agricultural production to recover rapidly in the short and medium terms. The DRC is different to other post-conflict countries, however, because the fall in agricultural production predated the conflict. As noted at the beginning of this report, it began just after independence and increased with the policy of "Zairianization" initiated in 1973, which resulted in the disorganization of commercial agriculture. It continued in the decades that followed in line with the deterioration in the transport infrastructure and the disappearance of production support services, cutting producers off from the markets and services they needed. In the mid-1990s, in most of the country there were only food crops grown for own consumption with no outlets and no access to agricultural inputs.

5.2.2 Domestic production

5.37 The DRC has enormous agricultural potential but for the time being it is largely under-exploited. It has 80 million ha of arable land, only 9 to 10 per cent of which is currently farmed. The wide diversity of agro-climatic conditions, the abundant and regular rainfall, and the presence of large volumes of surface water allow highly diversified production. The Congo basin provides a favourable climate for growing oil palms, rubber, coffee, cocoa, bananas and cassava, while the savannah is better for cotton, cereals, pulses and stock rearing. The mountainous areas, on the other hand, where the climate is relatively temperate, are suitable for altitude crops such as coffee, tea, potatoes, and also rearing livestock.

5.38 The extensive drainage network, which holds almost 50 per cent of the African continent's freshwater reserves, would allow irrigation to be developed on almost 4 million potentially irrigable hectares, whereas at present irrigated crops are very limited and confined to the industrial production of sugar cane and, to a lesser extent, growing rice. The vast areas available for pasture could allow over 40 million head of cattle to be raised, whereas now the national herd is only around 700,000 head (1.5 million in 1990). Lastly, inland waters, rivers and lakes could produce over 700,000 tonnes of fish annually, whereas the figure is now estimated to be less than 200,000 tonnes.

5.39 Agricultural productivity has continued to fall for half a century and the drop in perennial/industrial crops (coffee, cocoa, tea, rubber, oil palms, and cotton) has been spectacular. At the time of independence, Congo was the second largest exporter of palm oil in the world, after Malaysia but before Indonesia. Today, it imports over 50,000 tonnes of palm oil. The DRC was also the leading African producer of cotton, with over 180,000 tonnes of seed cotton produced by 800,000 small growers: today cotton production has virtually disappeared, with less than 6,000 tonnes annually. Likewise, the production of rubber, Arabica, Robusta and tea has fallen dramatically. Natural resources and their corollary, human resources, would enable a large increase in production provided that the capacity for it was recreated in order to respond to market requirements. For the time being, their under-utilization represents immense wastage in all areas.

[36] On average, in a sample of 35 developing countries, it was found that a 10 per cent increase in agricultural production increased the income of the lower quintile of income distribution by 16 per cent (compared to 12 per cent for industry and 8 per cent for services).

Food crops

5.40 Food crops account for 80 per cent of the agricultural GDP. Cassava is the country's major food crop and is grown in all parts of the DRC. Other crops vary in importance depending on the region: maize in the South (Katanga) and beans in the East. Because of the deterioration in the transport infrastructure and the breakdown of marketing channels, food crops mainly go to meet the population's own needs and/or to supply nearby markets. The principal food crops are cassava, maize, rice, plantains and beans. They are grown using traditional methods without employing either selected varieties, with the exception of cassava, or inputs (fertilizer and phytosanitary products), and yields are very low. According to official statistics, the growing of food crops has at best stagnated and probably declined since the early 1990s. Food production has been inadequate to meet the needs of a growing population, which has led to increased food insecurity throughout the country, and particularly in urban areas despite considerable increased in imports of rice, corn and palm oil. The main reason for this is that local production does not follow the rise in the birth rate. The reasons for this decline are the impossibility of producing on a large scale, the absence of improved varieties and inputs, inappropriate cultivation techniques, a high rate of disease and pests, and extremely high post-harvest losses. This decline in food crop production, a factor in food insecurity both at the political and household levels, highlights the depth of the crisis in the country over the past half-century. Sustained growth in food production is therefore the key, both for development of the sector as a whole and for the country's food security.

5.41 **Cassava** is produced throughout most of the country, particularly in the North-West (Bas-Congo, Bandundu, Equateur, Kasaï and Orientale). Total production is currently estimated to be 15 million tonnes, a marked decrease from the 20 million in 1991. Average yields of between 7 to 8 tonnes/ha are very low because of the use of traditional low-yielding varieties sensitive to diseases and insects (in particular, mosaic virus, anthracnose and cassava scale). Furthermore, the use of inappropriate cultivation techniques is the main problem for cassava producers. FAO, SECID (USAID) and IITA are supporting the revival of production through a programme that aims to propagate and rapidly distribute healthy cuttings selected for their tolerance or resistance to the mosaic virus. The positive impact of this programme is that many farmers are ready to invest in buying improved cuttings.

5.42 **Maize** is the major cereal produced in DRC, with a level of production four times that of rice. It is widely grown in the DRC, but especially in Katanga, the two Kasaïs, Bandundu, and in the north of Equateur. It is the only agricultural product whose output has increased since the 1990s, admittedly only to a small extent (from 1 million tonnes in 1990 to 1.2 million in 2002). Yields vary from one region to another. While output is very high on the large farms in Katanga, the national average is low with less than 1 tonne/ha.; here again the cause being insufficient use of improved varieties or agricultural inputs, as well as the damage caused by various diseases. The agro-climatic conditions in the DRC are nevertheless favourable for growing maize and would allow the DRC not only to be self-sufficient (eliminating imports, particularly from Zambia), but also to be the subregion's cereal basket following the upgrading of the transport infrastructure and adequate access to high-quality seeds and inputs.

5.43 **Rice** is mainly grown in the provinces of Equateur, Orientale, Maniema and Kasaï. Extensive rain-fed rice cultivation accounts for almost 98 per cent of the area under rice. Rice is also grown as bottomlands rice and in the irrigated flood plains of Bandundu, Bas-Congo, and around Kinshasa and other large cities. Output has steadily fallen since the early 1990s, from 395,000 tonnes in 1991 to 325,000 tonnes in 2002, a decrease of some 17.23 per cent, whereas consumption has increased sharply, particularly in urban areas. This has meant a spectacular increase in imports, which amounted to 200,000 tonnes in 2006. As is the case for other food crops, yields are low (less than 1 tonne of paddy/ha.) and could be substantially increased through the use of improved varieties (NERICA for example) and better growing practices. The DRC has considerable rice-growing potential, both in rain-fed conditions (zones of Bumba and Maniema) and under irrigation (valley of Ruzizi, etc.) or bottomlands crops in almost all provinces and could easily become self-sufficient in rice.

5.44 Other important food crops are groundnuts, beans and plantains. These have all seen marked decreases in production. Production of groundnuts fell by 30 per cent between 1990 and 2002 (from 500,000 tonnes to 370,000 tonnes). Over this period, the production of beans fell even more sharply, from 200,000 tonnes to 110,000 tonnes. Most of the production is in Kivu, Katanga and Bas-Congo. Plantains are mostly grown for household consumption and, in many cases, are the basic food (Eastern Province). Domestic production was estimated to be 500,000 tonnes in 2002, whereas it was around 2 million tonnes in 1990, a drop of 75 per cent. No effort is being made, however, to improve plantain production with a view to food self-sufficiency among the population and supplying local markets. The lack of high-quality seeds is a major problem for these crops, as is the sensitivity of the varieties available to diseases such as cercospora (leaf spot) and rosette.

Commercial crops

5.45 Commercial crops (oil palms, rubber, coffee, cocoa, tea, cotton) were an important source of export earnings for the DRC until the end of the 1960s. These crops were mainly produced in the north of the country (Bas-Congo, Equateur, Eastern Province, Kivu), except for cotton, which was also produced in Kasaï and Katanga. Commercial production was dominated by large plantations, even though small-scale farms played a very important role, especially for cotton, robusta, cocoa and oil palms. In the 1970s, they collapsed, first of all because of "Zairianization", which considerably depleted the sector's technical and managerial capacity, and because of the conflicts that affected the main zones of production (pillaging from 1991 to 1993 and war from 1996 to 2001). The disappearance of large modern plantations led to the disappearance of small farms, which depended on large plantations for access to services and to markets. Today, the majority of industrial and export chains have been affected and their exports have fallen dramatically or even been completely wiped out. The main commercial crops (oil palms, rubber, Arabica, Robusta, cocoa, tea and cotton) are examined in detail in the paragraphs below.

5.2.3 Foreign trade

5.46 The long term evolution of the DRC’s agricultural trade balance has been uneven since independence: exports were significant in 1960 but quickly fell after independence[37] and became negligible from 1980 onwards, and imports, mainly foodstuffs, increased exponentially to supply the domestic market, primarily Kinshasa. This evolution reflects the interaction of three forces: (i) the decrease of the overall production but mainly of commercial produce, since farmers opted for a food self-sufficiency strategy in the face of smaller markets, (ii) the positive impact of demography on demand, and (iii) the inhibiting effect of a general increase in poverty on demand.

5.47 The collapse of agricultural production has been particularly marked in the industrial and export crops subsector, where modern plantations were the catalyst, opening up the market to production at the village level as well, thereby giving it support for its production. Exports of bananas and groundnut oil stopped in 1970, cotton in 1977, and palm oil in 1985. The DRC is once again exporting coffee (Robusta and Arabica), cocoa, tea, cinchona, and latex, but in insignificant volumes.

[37] Agricultural exports accounted for 39% of total exports in 1959 and 14% in 1969.

Table 11: **DRC's agricultural exports, 1960-2000**

	1960	1970	1980	1990	2000
Coffee	3.5	62.0	62.5	95.0	39.0
Tea	10.0	10.5	1.5	2.0	
Rubber	40.2	31.4	14.5	7.0	2.0
Cocoa	4.0	4.5	4.2	2.0	3.0
Palm oil	160.0	123.5	10.0		
Bananas	31.0	0.1			
Walnut oil	7.0				
Cotton	51.0	8.9			

Note: The extremely fragmentary and uncertain nature of the DRC's foreign trade figures also of course applies to trade in agricultural products. These figures should therefore be interpreted with the greatest caution.

5.48 Imports of food products, on the other hand, have seen a reverse trend. Congolese producers have gradually been cut off from the major markets for their products because of the growing insecurity in rural areas, the sharp rise in transport costs because of infrastructure deterioration and systematic racketeering from official services and armed groups. Disruption of access to essential services such as seeds, inputs and advice has meant a downturn in agricultural output. With the exception of those situated close to large consumption centres, producers have opted for a strategy of self-sufficiency and only sell the occasional surplus from their own production. Large urban centres, especially Kinshasa, have thus ceased to be supplied by domestic production and have turned to imports, including those products for which the country has comparative advantages such as rice, maize, palm oil and meat.

Table 12: DRC's agricultural imports, 1959-2006

	1959	1970	1980	1990	2006
Meat	8.0	11.0	8.7	54.0	80.0
Fish	34.0	32.0	8.7	164.0	120.0
Eggs and milk	11.3	9.0			
Maize	6.0	60.0	147.0	17.0	200.0
Rice	2.3	19.0	10.0	61.0	200.0
Wheat flour	38.7	52.0	103.0	110.0	200.0
Palm oil					60.0
Sugar	8.0		17.0		

5.49 Although the situation of agricultural statistics does not yet permit any certainty, it would appear that the return to peace and security in a large part of the country since 2002 has enabled agriculture to pick up and seen the beginning of a recovery in exports (Arabica, latex and tea, among others). It is too soon, however, to determine whether the sector's recovery has led to a structural reduction in food imports. The increase in the population and income in urban areas in particular will lead to increased demand for food, but domestic production has to be competitive *vis-à-vis* competing imports, win back its market share and enable imports to be reduced. Although, as we mentioned above, the DRC has a clear comparative advantage for the production of a large number of agricultural products, many constraints will have to be lifted before this comparative advantage can be transformed into genuine competitiveness.

5.2.4 Opportunities

5.50 The situation appears favourable for a sustained recovery of agricultural growth, both on the domestic market and on regional and international markets. The recovery in national growth from 2002 onwards, combined with the increase in the price of agricultural products on international markets, have created a key opportunity for the DRC's agriculture, both for export products and for import substitution products. Internal demand offers great opportunities for food crops and livestock products. Regional markets, which have recorded significant growth since the end of the 1990s, constitute an important source of growth for Congolese producers. Lastly, global markets, despite their sharp fall since the beginning of the international financial crisis in mid-2008, represent a practically unlimited outlet for a country whose current exports are negligible.

Domestic market

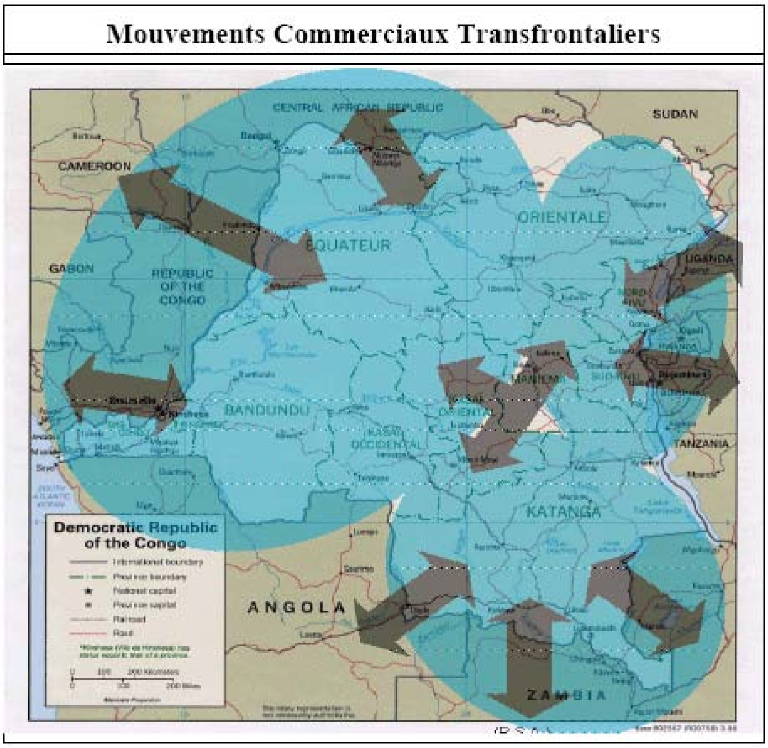
5.51 Because of the decisive importance of food crops in the DRC's agricultural production, the domestic market is a crucial outlet for growth. Because of declining income, internal demand has, at best, been stagnant over the past two decades, a decline that can be seen in the continued deterioration in the nutritional situation of households, which negates any positive contribution of the increase in population in large urban centres. The recovery in economic growth since 2002, however, should lead to an increase in income, especially among the urban population, and underpin growing demand for food products. Over the period 2003-2008, annual growth in per capita GDP was around 3 per cent. The majority of households should therefore use most of this increased income not only to improve their nutritional situation but also increasingly over time to redirect their consumption toward products with higher value added (fruit, vegetables and meat). The combined effect of population growth (at the very high rate of 3 per cent annually), higher incomes and the consumption of higher value added products could therefore increase internal demand for food products by at least 6 per cent annually in the medium term.

5.52 Furthermore, substituting local products for food imports is a non-negligible source of growth for the sector. The increase in the price of agricultural products on international markets has created a valuable opportunity for Congolese agriculture and for upgrading the transport infrastructure between major urban centres. The production zones should henceforward allow local production to become fully competitive with imported products. This appears highly possible for rice, maize, palm oil, meat products and, possibly, sugar, whose prices fell after the sharp rise in 2008 but should remain high up to 2015 (US$470/tonne for rice, US$780/tonne for palm oil, see below). In addition, there is significant potential for substituting cassava flour for imported wheat flour to produce bread (20 per cent of cassava flour does not change the taste but improves the shelf life and texture of the product) and the production of gari can also constitute an alternative to the consumption of bread and rice, as is the case in West Africa. The substitution of some of the current imports represents an additional source of growth that could lead to a global increase in domestic demand for food products of around 7 to 8 per cent annually over the next five to seven years. If Congolese producers respond in line with this demand, it would have a major impact on poverty reduction in the country, especially in rural areas. It has in fact been shown that growth in agricultural income does not only have considerable carry-over effects on the local non-agricultural economy, but also helps to alleviate poverty in other sectors of the economy and in urban areas.

Regional markets

5.53 For Congolese producers in border provinces, the subregion's markets also offer considerable potential for growth. Major areas of cross-border trade are illustrated in the map below. The principal outlet for producers in Bas-Congo, Bandundu and Equateur is the metropolitan region of Kinshasa, but also markets in the Republic of the Congo, Gabon, Cameroon and the Central African Republic. The main market for producers in the South of the country is the mining basin of Katanga, but also Zambia, Angola, Zimbabwe, and even South Africa. The principal external outlets for producers in the two Kivus and Ituri are countries around the Great Lakes, Uganda, Burundi, Rwanda, and the regions to the West of Tanzania and Kenya.

Figure 33: **Cross-border trade flows**



5.54 Cross-border trade channels, mainly informal, are already operating and will allow domestic producers of food crops (but also possibly of cotton) to take advantage of the relatively sustained growth of countries in the subregion (beans, livestock, tea, for Kivu; maize and livestock for Katanga; cassava, palm oil and Robusta for Equateur and Bas-Congo). Neighbouring countries also serve as platforms for export as their logistics are better. A large part of coffee exported from Rwanda in fact originates in Kivu, transiting through the Northern corridor (Goma – Kigali – Kampala – Nairobi - Mombasa). The DRC is a member of SADC and COMESA and regional market opportunities can but develop with the implementation of regional agreements and closer regional integration.

International markets

5.55 Current prices for the DRC's main exports (Arabica, Robusta, tea, cocoa, latex) are forecast to be extremely favourable in the medium term. The DRC, as a very marginal producer, will have no problem in selling output several times higher than the current levels. The expected trend in global prices for these crops is shown in the table below. Because of strong demand in developed and emerging markets, prices for most commodities, including agricultural commodities, increased sharply after 2005 and reached a peak by mid-2008. Since then, prices have fallen because of the financial crisis that abruptly brought economic growth in developed and emerging countries to a halt. The rapid fall in demand for agricultural products led to a marked drop in their prices on the international market, but at a level exceeding that in 2005-2006. The economic recovery, however modest, commenced in mid-2009 and should help to keep international prices at a relatively high level in the medium term, although any new downturn in global economic growth will have a negative impact on raw material prices.

Table 13: **Estimated trend in the price of the DRC's main exports**

Prices in current dollars	2008	2009	2010	2011	2015	2020
B. Beverages (nominal)						
1. Cocoa ct/kg.	257.7	260	240	200	175	170
2. Coffee, Arabica, ct/kg.	308.2	290	270	255	255	230
3. Coffee, Robusta, ct/kg.	232.1	180	178	177	180	150
4. Tea, auctions (3), average ct/kg.	242	235	220	220	220	225
C. Fats and oils (nominal)						
1. Palm oil, US$/tonne	948.5	650	660	670	780	715
D. Grains (nominal)						
2. Maize, US$/tonne	223.1	165	166	167	174	175
3. Rice, Thailand, 5%, US$/tonne	650.2	500	470	462	470	483
E. Other food products (nominal)						
2. Meat, beef, US$ct./tonne	313.8	250	265	269.8	290	325
3. Meat, chicken, ct./kg.	169.6	164	166.7	169.6	181.2	196.7
6. Sugar, world, ct./kg.	28.2	28	29	31	34	38
G. Other raw materials (nominal)						
1. Cotton, ct./kg.	157.4	125	128.1	135	145	140
2. Rubber, Singapore, ct./kg.	258.6	150	160	170	190	185

5.56 **Palm oil.** Global demand for palm oil has risen sharply in recent years (10 per cent annually since 2000) and should continue to do so in the future. Less expensive than traditional vegetable oils, palm oil has become the most widely consumed oil in the world. It is also used in many industrial, pharmaceutical and cosmetic products. Its low production cost makes it an ideal candidate for manufacturing biofuels (biodiesel), an industry enjoying a boom (a 35 per cent increase in annual production since 2002) with the increase in the price of petroleum products and it offers important outlets for this product, particularly as the quality criteria are less stringent than in the food industry. In the coming five to ten years, the price of palm oil should fluctuate around US$800/tonne.

5.57 **Rubber.** Rubber is mainly used in the automobile industry and in particular for making tires. Natural rubber covers 40 per cent of global needs, the remainder being covered by synthetic rubber manufactured from petroleum. Between 2001 and 2008, higher oil prices made the cost of synthetic rubber rise and rebound on the price of natural rubber, which increased fivefold (from US$0.50/kg. in 2000 to US$2.50 in 2008). With the financial crisis and the crisis in the automobile industry in developed countries, demand for tires and rubber declined and prices fell sharply before rising to the current price of around US$2.60/kg. It is expected that prices will stabilize in the medium term around US$2.20/kg., the principal uncertainty being the price of oil, which is not predicted to decrease to any significant extent.

5.58 **Coffee.** Arabica prices averaged US$3.00/kg and Robusta US$1.70/kg in 2009. Global consumption is increasing annually by 2%. And it is estimated that international prices will not significantly fall over the next few years. A decrease in global production of Robusta coffee may even lead to higher prices. However, substantial price volatility due to uncertain crop yields makes growth opportunities in this sector more uncertain. Production for niche markets (organic, fair trade), or for demanding markets (EU, USA) at higher prices gives more promising growth prospects. These prospects, however presuppose that farmers have adequate capacity to create the necessary distribution channels and meet the traceability and quality requirements of these markets.

5.59 **Tea.** International demand has steadily increased over the past 40 years, at a sustained annual rate of 3 per cent (1.1 million tonnes in 1960 rising to 3.8 million tonnes in 2007). Four countries account for some 75 per cent of production: China (30 per cent), India (28 per cent), Kenya (10 per cent) and Sri Lanka (8 per cent). The major producing countries are also consuming countries and only 40 per cent of global production is exported. Consequently, although they produce on a relatively small scale, African countries account for 30 per cent of global exports of tea. Tea is usually sold at auction on the international market. Prices fluctuate considerably in direct ratio to the quality and quantity of annual harvests. In 2009, they were US$2.70/kg., sustained by a shortfall in meeting demand. The steady increase in demand, despite the expected increase in production and the entry of Viet Nam into the international market, should see prices stabilizing around US$2.30/kg. As is the case for Arabica, it is important for the DRC to position its production on the high-quality tea market, where prices are far higher than for ordinary tea. This is quite feasible taking into account the highly favourable agro-climatic conditions found in DRC that lend to the production of high-quality tea in the DRC, but will necessitate substantial investment in varieties and processing.

5.60 **Cocoa.** Cocoa is one of the rare commodities that did not suffer the negative impact of the economic recession. On the contrary, its price on the international market has continued to rise, reaching US$3.5/kg. in December 2009, its highest in 30 years. The main reason for this price boom is the market's concern at the uncertainty affecting short-term production in Côte d'Ivoire, which is the world's largest producer, but also concern for production in the longer term, because of aging plantations and possible structural decline in production. The increase in the international price should, however, limit demand and encourage Ivorian planters to renew their plantations, and other producing countries (Ghana, Indonesia) also to increase their production. The price should therefore fall over the next few years, but still remain attractive (around US$2.0/kg.) to producers.

5.61 **Cotton.** The international market price of cotton was on average US$1.40/kg. in 2009, depressed by surplus production as a result of the subsidies granted in some industrialized countries (United States of America, European Union), competition from synthetic fabrics and the downturn in global economic growth. In the short and medium terms, it should range from US$1.40/kg. to US$1.60/kg as economic recovery can be expected. Demand for cotton should then be offset by an increase in production attributable in part to the increasingly generalized use of Bt seeds (over 50 per cent of the area planted).

5.62 The international market thus appears highly favourable to the development of the DRC's traditional exports, with enormous comparative agro-climatic advantages for their production. To transform this comparative advantage into genuine competitiveness and thus benefit from the opportunities opened up, the international market will demand that the serious constraints that led to the virtual disappearance of previously flourishing sectors be lifted. The paragraphs below briefly address the most important cross-sectoral constraints.

5.2.5 Principal industrial and export subsectors

Palm oil subsector

5.63 At independence, palm oil was the country’s major export and in 1960 it exported 167,000 tonnes of palm oil and 60,000 tonnes of palm kernel oil. These accounted for almost half of the country's total export earnings, making it the second largest exporter of palm oil in the world, behind Malaysia but on a par with Indonesia. Total production was much higher if domestic consumption is taken into account. In most of the country, palm oil was the main edible oil used. It was estimated to be around 270,000 tonnes, of which 100,000 tonnes came from industrial plantations, 50,000 tonnes from village-level plantations, and around 120,000 tonnes from natural palm groves. In 2001, after four decades of decline, production on industrial plantations was estimated to be less than 5,000 tonnes, the vast majority of domestic production came from village plantations or natural palm groves and was for own consumption or sold on local markets. At present, the DRC imports around 50,000 tonnes of palm oil each year to meet national demand, which continues to grow. Domestic production is estimated to be around 300,000 tonnes, of which 200,000 tonnes come from natural palm groves, 50,000 tonnes from village plantations, and 50,000 tonnes from industrial plantations. Imports and production from industrial plantations mainly supply the large urban centres. Most of the production from village plantations and natural palm groves is either for own consumption or sold on local markets by traders who, although very dynamic, have little distribution capacity. Palm oil is used as edible oil (mostly unrefined) or to make soap and other household goods (candles, etc.).

5.64 The industrial sector is dominated by two large groups, PHC and Blattner, which supply the processing industries (MARSAVCO) in Kinshasa. Industrial plantations as a whole are old and nearing the end of their productive life. Their rehabilitation and expansion started again after the disturbances ended in 2002. Production has begun to show a marked increase, from less than 15,000 tonnes in 2001 to over 50,000 tonnes at present. It appears that the village sector has continued to renew its plantations regularly, in the beginning essentially for own consumption. However, this was done using plant material that was not selected and with very low yields. The average yield is low: 5 tonnes/ha in village plantations and 10 tonnes in industrial plantations (compared to 25 or even 30 tonnes/ha. in Malaysia and Indonesia). Furthermore, very little oil is produced during processing: 15 per cent in industrial extraction, because of obsolescent equipment, compared to 23 per cent in modern facilities; and less than 10 per cent in small-scale extraction because of antiquated methods (hand press), which not only give a very low rate of extraction but also oil of poor quality (acidity). Modern 'mini' presses that increase the rate of extraction to 18-20% are available on the market.

5.65 These very low extraction rates mean tremendous wastage because the country is obliged to import over 50,000 tonnes each year. Improving the average extraction rate by only 5 per cent would allow around 150,000 additional tonnes (a 50 per cent increase) to be produced under the same production regime.

5.66 This subsector has considerable growth potential. There is strong domestic and international demand for palm oil, *inter alia*, for biodiesel fuel, and prices are attractive and should continue to remain so (see below). There should be sustained growth in domestic demand because of the rising birth rate (3 per cent annually), increased per capita consumption, which is low at present at around 5 kg./year compared to over 12 kg./year in West Africa, and also higher incomes. It can reasonably be estimated that domestic demand alone, today estimated to be 350,000 tonnes, could increase at a rate of almost 5 per cent annually and exceed 1 million tonnes in 2030. This is almost three times the current level and would require the planting of a further 160,000 ha or so (with an average yield of 20 tonnes/ha.), i.e. 8,000 ha annually. This is possible, both at the industrial and village levels.

5.67 Indeed, (i) the DRC's agro-climatic conditions are extremely favourable for oil palms, particularly in Equateur province and in the basin (where there are large natural palm groves); and (ii) the international market price for palm oil should remain high in the future. Currently, the average cost price of crude palm oil (CPO) produced on the country's large industrial plantations can be estimated at around US$700/tonne "delivered Kinshasa", which is already lower than the cost price of imported oil (around US$900/tonne). Moreover, large gains in productivity are possible throughout the chain, agricultural productivity, rate of extraction of oil, lower transport costs, which would substantially reduce production costs[38] and, consequently, profit margins. Priority should be given to the following improvements:

[38] The cost price of crude oil is around US$250/tonne in Malaysia and US$350/tonne in Côte d'Ivoire.

5.68 **Increase in agricultural productivity.** As we have seen, yields are currently very low (less than one half or even one third of those in South-East Asia) because the plantations are old and the plant material is not very productive. At the present time, Congolese research no longer produces selected plant material and the large industrial plantations import and propagate what they need. They are also capable of mobilizing the inputs and services they need by themselves. This is not the case for village planters, the majority of whom have medium-sized plantations and do not for the moment have access to seedlings or advice, or only to a limited extent, in order to increase productivity. It will therefore be necessary rapidly to introduce mechanisms that will allow the dissemination of technological progress (selected seedlings, inputs, advice) among village planters, for example by using the industrial plantations as a relay in the context of PPPs.

5.69 **Improve extraction yields.** Industrial plantations have equipment that is for the most part obsolescent and whose extremely low level of efficiency weighs heavily on the cost price. This equipment has to be renewed in the short term. To do this, operators are faced with the problem of lack of medium-term credit, except in special cases where they may have access to the resources of the FPI (see below) or offshore loans.

5.70 Development of the palm oil subsector could however have extremely serious social and environmental impacts. Uncontrolled expansion of industrial plantations can in fact deprive the population of their customary law property rights and of their means of subsistence. From the environmental standpoint, it can also have negative effects such as deforestation and mass loss of biodiversity, the pollution of water sources and ground water by fertilizers and phytosanitary products and the emission of toxic effluent, as well as the production of large quantities of greenhouse gases (CO^2 and methane). It will therefore be very important to ensure that the Government's agricultural concession policy allows undesirable social and environmental effects to be kept to the minimum or eliminated when developing this sector.

Rubber subsector

5.71 Production of rubber (on plantations) commenced in the DRC in 1906. In 1960, the Congo had around 90,000 ha of plantations, of which one third were at the village level (principally in Bas-Congo, Equateur, Bandundu and Orientale), producing 60,000 tonnes of rubber. At the end of the 1970s, following the Zairianization of the industrial plantations, production had fallen to 20,000 tonnes and exports to 18,000 tonnes. The decline has continued and annual production is now only 10,000 tonnes, almost exclusively produced by the 15,000 ha of industrial plantations as village plantations have virtually disappeared. Three quarters of the production is exported (7,500 tonnes), the remainder (2,500 tonnes) is used locally to produce tyres (Cobra) and footwear.

Table 14: Production by province: industry vs. cottage industry

Province	Agro-industrial sector		Cottage industry	
	Surface (ha.)	Production (t.)	Surface (ha.)	Production (t.)
Bas-Congo	5,400	2,800	300	100
Bandundu	3,400	300	-	-
Equateur	6,500	6,600	-	-
Total	15,300	9,700	300	100

5.72 The cost price of the principal product (smoked rubber sheets) is extremely high: U S$750/tonne (f.o.b.) because, as is the case for palm oil, productivity on the plantations is low (less than 1 tonne/ha. compared to 2.5 tonnes/ha. in Côte d'Ivoire) as a result of their age and low labour productivity; industrial facilities are obsolescent and processing costs very high owing to the high cost of energy itself; and transport and export costs are prohibitive.[39] Furthermore, the lack of quality control means that Congolese rubber sells at a much lower price on the international market (around 20 per cent less).

5.73 The rubber subsector offers the DRC an important potential source of growth. The country has very favourable agro-climatic conditions, at least as good as those in Côte d'Ivoire and probably better than those in Asian countries. Demand and international prices should remain high (US$2.20-S$2.50/kg.) as the price trend for natural rubber shadows that for synthetic rubber and, consequently, oil. This high international price, even with the current very high production costs, enables large profits to be earned. Gains in productivity are possible at each level in the subsector and would increase the profit margin still further. It is therefore likely that the subsector will prove of interest to industrial operators and village planters (if they can obtain access to a processing plant). The DRC should no longer have any problem in exporting much larger volumes to an international market in which it is a very marginal producer. The main problem is the response of domestic producers. It would seem reasonable to envisage a plantation/replantation programme for at least 50,000 ha over the next 20 years (2,500 ha./year when Côte d'Ivoire is planning to plant over 15,000 ha./year). This should enable the DRC to produce/export over 40,000 tonnes of rubber (dry) in 2030 compared to 10,000 tonnes at present, representing average annual growth of 7 per cent over the period.[40]

5.74 Sustained growth in the rubber subsector would have substantial benefits for the DRC, not only in terms of export earnings but also in job creation, especially if it includes the village sector. Rubber production allows the creation of one full-time job for every 2 ha. of plantation in production (agricultural and agri-business jobs). Like the palm oil subsector, the main constraints to be lifted in order to transform the country's comparative advantage for rubber production into real competitiveness are access to high-yielding plant material and to medium/long-term loans to finance plantations and the industrial base. In addition, there is another important factor for the sustained development of the subsector, namely, the availability of an efficient labour force, especially tappers. The development of industrial rubber plantations can also have negative impacts (environmental, social) very similar to those for palm oil plantations, and should be conducted in a coordinated manner to limit the risks. Lastly, unlike palm oil, for which there is a highly competitive local market, production by village plantations wholly depends on an industrial plant for processing and marketing. This may give rise to monopolies on the part of industrialists so a transparent and fair producer price policy will have to be introduced.

Arabica subsector

5.75 Arabica is only grown in North and South Kivu, where the climate is highly propitious for this crop. In the early 1960s, production was around 15,000 tonnes, principally on plantations established by the colonists but also village-level plantations. With the "Zairianization" policy, many plantations were abandoned, but village plantations continued to develop. In 1989, exports of Arabica were still 20,000 tonnes. The area under production and production itself, however, fell sharply from 1990 onwards because of the disturbances in Kivu. Official exports (there is large-scale fraud, see below) fell to less than 4,000 tonnes in 2003 before rising recently (7,000 tonnes in 2008) thanks to an improvement in the security situation in the production zones. It is estimated that in 2006 there were around 75,000 ha planted with Arabica, of which over 85 per cent were small village plantations of less than 5 ha. (with some 70,000 growers), plantations of over 50 ha only representing a small part of the total (3 per cent or 2,000 ha.).

[39] The costs are the following for a plantation in Equateur: agricultural costs US$150/tonne; processing costs US$100/tonne, i.e. one and a half times the cost of maritime freight between Matadi and Europe (US$100/tonne); extraordinarily high export costs of US$300/tonne.
[40] Growth will initially be very limited, however, because of the long period required (seven years) before plantations start to produce. There may therefore be no significant increase in production until after 2017.

5.76 Yields are extremely low, between 150 and 300 kg./ha., because of ageing plants and low density in plantations (more than 80 per cent of the plantations are 30 or more years old), lack of access to improved varieties and bad cultivation techniques. Quality is also poor (in 2006, only 1.6 per cent of the production was classified in the top categories - K1 to K3 - compared to 43.6 per cent in the 1950s), which has meant a greatly reduced price for the product on the international market. Some large plantations, such as Katale (Goma) import high-yielding varieties from neighbouring countries, but the vast majority of (small) producers have no access to selected plant material or to the advice they need. Research programmes on Arabica (INERA) were halted in the early 1990s and the ONC, responsible for providing producers with support, has ceased operating and now only controls exports.[41]

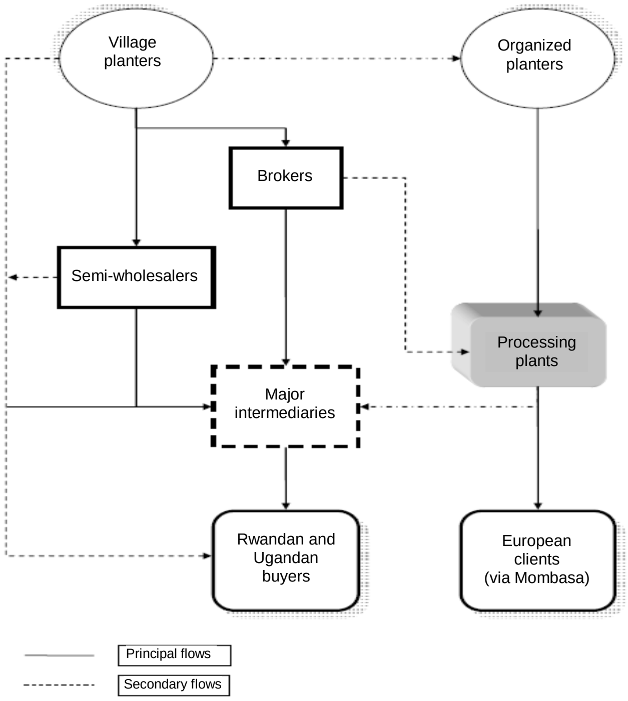
5.77 In 2006, official exports amounted to 4,500 tons in addition to at least an equivalent volume of fraudulent exports (to Rwanda/Uganda) due to high formal and informal taxes on official exports. Current total production may therefore be estimated at 10,000 tons of commercial coffee. Most exports come from village growers and are mostly composed of pre-dried parchment coffee, sold to Rwandan or Ugandan buyers who then process it into commercial coffee, instead of being exported as fully washed deparched coffee that sell at higher prices on the world market. The main reason for this fraud and for exports of parchment coffee is high additional costs for official exports due to (i) several legal and illegal fees charged by an impressive number of public services (about twenty) and maybe even more (ii) the harassment and major delays affecting official exports.

Table 15: Cost structure, October 2009

	US$/ tonne
Selling price (Mombasa)	2,500
Transport Kivu-Mombasa	240
Taxes and other export charges	250
Ex-factory	2,090
Processing (pulping/hulling)	90
Field price (dry coffee)	2,000
Field price parchment (60%)	1,200
Agricultural costs	800

[41] The ONC has three regional offices in the region and has established some propagators and nurseries, but its support activities are marginal.

Figure 34: **Principal and secondary flows**



5.78 The table above in fact shows that the cost of market access is high. Taxes and other official and unofficial levies account for 10 per cent of the selling price and 13 per cent of the ex-factory price; transport along the Northern corridor between Goma and Mombasa is extremely costly (US$240/tonne), or twice that paid by Ugandan or Rwandan producers (US$140/tonne), with carriers imposing a risk premium, and long periods of immobilization while the product is loaded.

5.79 The DRC (Kivu) offers exceptional conditions for the production of high-quality Arabica (climate, very fertile volcanic soil in the medium term even without fertilizer). The cultivation of Arabica is deeply rooted in farmers' culture and the prices expected in the medium term (US$2.50/kg.) allow a field price that is fairly attractive, even though current marketing costs are very dissuasive (some US$1.0/kg. for washed parchment coffee). Access to land should not present any problem for village planters, or in the medium term for industrial plantations (domains), which can in the first instance focus on rehabilitating their plantations. There are still around a dozen domains in Kivu that would benefit from rehabilitating their plantations and relaunching wet processing of their own production, but also that of surrounding small-scale planters (which would enable excellent quality "fully washed" coffee to be produced) and in the medium term they could act as a relay to give small-scale producers access to plant material and advice. The plantation/replantation of 1,000 ha a year over the next 20 years appears to be a very reasonable objective and would enable production of an additional 10,000 to 12,000 tonnes to be attained in 2030, with total production of around 20,000 tonnes as against the 10,000 tonnes at present, giving a rate of growth of over 7 per cent per year.

5.80 As is the case for other perennial crops, the constraints to be lifted as a priority are access to high-yielding plant material and advice (which could double current yields); access to medium-term loans to finance the plantations[42] and the equipment needed; a reduction in costs, which greatly hamper the competitiveness of Congolese producers and encourage fraud. Access to selected seedlings, which implies a return to security in rural areas, is the fundamental constraint to be lifted

[42] The cost of setting up an industrial plantation is estimated to be around US$1,300 and a village plantation US$400/ha excluding labour (especially for buying plantlets).

in order to develop production at the village level. The marketing channels have remained highly active, even in periods of disturbance. Inasmuch as they are under-capitalized and have no access to loans, one short/medium-term option could be to subsidize production and distribution of seedlings. It is also important to raise the quality of production, which means better agricultural practices, better drying and better pulping on-the-spot using the dry method practised by the majority of small-scale producers[43], or washing.

Tea subsector

5.81 The production zone for tea is the same as that for Arabica, mainly Kivu. The trend in production has also been similar. A long decline after independence following "Zairianization", led to a large number of plantations being abandoned and consequently village-level production that had been processed in their factories ceased. Towards the mid-1960s, there were around 14,000 ha. of plantations, with 1,500 ha of village plantations (9 per cent) and production of 11,000 tonnes of marketable tea. By 1985, production was only 4,500 tonnes and it collapsed with the conflict from 1996-1998 (600 tonnes in 2001). It has since recovered slightly and can now (2007) be estimated at some 2,000 tonnes of marketable tea, exclusively produced in the few large properties that still exist, whereas village production has totally disappeared (60 tonnes in 2006).

5.82 Yields are very low, from 300-500 kg/ha of marketable tea (2 to 2.5 tonnes of fresh leaves) for small planters and 1 tonne/ha for industrial plantations (5 tonnes of fresh leaves) because of the age of the plantations (between 30 to 60 years), failure to use inputs, and bad agricultural practices. Support for production is non-existent. Research ceased in the early 1990s and, as is the case for Arabica, the ONC, responsible for giving producers technical advice, has ceased doing so. The properties still producing (six in 2006) have timidly started to rehabilitate their plantations, obtaining selected plant material from Rwanda or Kenya, to which small-scale planters have no access. Similarly, although there were 22 tea factories in 1960, only five are now operating, all obsolescent. Their productivity is extremely low and they consume an excessive amount of wood and produce low-quality tea that receives a much lower price on the market.[44] Any revival of the sector will require their rehabilitation and, consequently, substantial investment. Production is mostly exported and sold at auction in Mombasa, with the exception of small quantities sold on the market in Kinshasa.

5.83 The DRC possesses an excellent comparative advantage for the production of tea and production potential is considerable on the high plateaux of Kivu, which offer agro-climatic conditions and soil that are exceptionally favourable to growing tea. The medium-term prices expected on the international market are also attractive (US$2.20-US$2.50/kg.). Development of the largely destroyed sector means lifting the constraints that hamper the competitiveness of Congolese tea production. These are similar to those affecting the production of Arabica, low agricultural yields (access to selected seedlings and renewal of plantations), low level of efficiency in processing (rehabilitation of factories requires access to investment credit), transport costs and export charges made excessive by administrative red tape and sizeable levies.[45] The fact that Congolese producers can operate profitably under the current conditions is eloquent proof of the country's comparative advantage for growing tea. Gains in productivity can be made at all stages and make the speculation particularly attractive for investors and village growers. Like Arabica, access to land should not be a

[43] There are small efficient pulpers at low cost, but for the moment these are not available in Kivu. There is even some small equipment (ecopulper) that allows high-quality, fully washed coffee to be produced and these are being used with success in Latin America and Kenya.

[44] This is one of the factors that has a negative impact on quality is the excessive amount of time that elapses between picking and processing of fresh leaves.

[45] Currently, the average price received for Congolese tea at the Mombasa auctions is around US$1,800-US$2,000/tonne (10 per cent lower than for Rwandan tea and more than 40 per cent in comparison with the best Kenyan tea). Its cost price is around US$1,500/tonne: agricultural costs US$450/tonne, processing costs US$600/tonne, transport and export charges US$450/tonne.

major problem in the medium term. The plantation/replantation of 1,000 ha yearly over the next ten years, a very reasonable objective, would enable production of 15,000 to 20,000 tonnes to be achieved by 2030, corresponding to a growth rate of over 10 per cent each year. It is important to note, however, that because of the need to process fresh leaves very quickly, development of the village sector is highly dependent on that of the industrial sector, and consequently on its rehabilitation.

Robusta and Cocoa Sectors

5.84 Both sectors have a very different past as well as contrasted recovery prospects. While cocoa production never took off (still below 6,000 tons/year), which is strange given the DRC's comparative advantages for its production, Robusta production was already substantial before independence (50,000 tons exported in 1959) and further increased until the end of the 1980s (almost 110,000 tons in 1989) before falling during the past two decades. It is currently less than 20,000 tons. Both sectors are presently devastated. However, development prospects for the cacao sector seem excellent but they are much less obvious for the Robusta sector.

Current Situation

5.85 **Cocoa.** Cocoa cultivation has never developed in the DRC despite excellent agricultural and climatic conditions and the fact that it does not require intensive labor or complex growing methods. While in the great majority of producing countries, production is mainly done on family farms, it was and still is largely done on commercial plantations. At the time of independence, 5,200 tons were produced by agri-businesses in the Equateur and Bas Congo provinces. Unilever used to produce 45% of the total production and 5 other big plantations produced 40%. Village production (10%) was developed around these agribusinesses that offered planting shoots and outlets to village growers and through specific projects such as the Bengamisa Cocoa Project (CABEN) in Orientale. Production never exceeded a very low level especially when compared to volumes produced in other African countries including Cote d'Ivoire (1.4 million tons), Ghana (750,000 tons), Nigeria and even neighboring Cameroon. During the1980s, it reached a maximum level of 6,300 tons before slowly falling to around 3,500 ton per year in the mid 1990's. It was 2,000 tons in 2006

5.86 It is very difficult to have a precise idea of the current state of the sector both in terms of production (plantation surfaces, yield, and production) and marketing channels. Production is mostly localized in the Bas-Congo, the Equateur (north) and the Eastern province, with low production still remaining in Bandundu, Maniema, Kasaï (north) and the South-North Kivu[46]. It is largely carried out by big plantations (SCAM in the Bas-Congo; PHC, CACAOCO-Bulu and INERA in the Equateur, CABEN in the Orientale,) – although some of these plantations such as SCAM – associated with village plantations[47] - are now shared-farm agricultural areas. The plantations are very old. Those owned by village growers are based on very low productivity "raw" plant material. Yields are very low (200kg/ha versus 450 kg in Cote d'Ivoire and more than a ton in Vietnam). There is almost no phytosanitary treatment and if cropping methods seems adequate on the lands with generally qualified staff, they are just basic for village plantations that generally do not have access to any agricultural advice.

5.87 The National Coffee Office (ONC-), responsible for developing the coffee/cocoa sector and MAPE no longer provides services on the field and only a few farms and NGOs (IRM in the Equateur) still support village growers. Research on cocoa ended a long time ago. INERA

[46] Butembo, or an ongoing re-plantation program with the support of GTZ).

[47] This in « pocket » production and the survival of commercial plantations using salaried staff while this type of production has practically disappeared elsewhere in the world, is probably linked to the need for adequate concentration of product for marketing purposes and to the fact that cocoa plantations on large lands are often associated with other crops such as the oil palm and/or hevea, which lower their costs. .

(Yangambi, Luki and Bongabo stations) still have hybrid cocoa tree clones but the quality of this genetic material must be checked and most likely it is no longer competitive given the plant material currently available in the key producing countries. In addition, INERA clones are not multiplied nor put at the disposal of growers. Some farms (PHC in Eastern Province for instance) that recently began replanting do so with plant material from Cote d'Ivoire. It will be necessary to import very effective plant material from the main producing countries, adapt it to Congolese conditions and resume the multiplication of clones through the re-creation of wood parks and seed production fields at the research stations and the green shoots and/or grafting centers in the producing areas.

5.88 Post-harvest processing of beans (fermentation, drying) is generally of acceptable quality on the farms, but of very low quality in the village plantations. Growers sell beans that are inadequately fermented, dried and often immature. Producers receive the same price whatever the quality and have therefore no incentive to properly process their cocoa before selling it. Processing of village production is therefore undertaken by the buyers –independent farms or processors- but the final quality is often compromised. Generally, the lands have processing and storage equipment, in principle approved by ONC. However the equipment is very obsolete with poor productivity. It has to be renewed but since it is currently impossible to obtain loans, it is not possible to finance the necessary investments. The lack of available energy (electricity, fuel oil) also puts a serious strain on the processing activities (drying). The independent buyers are small-scale hawkers who buy small quantities because of their very limited financial capacity and who have very high margins to offset the low processed quantities and to cover the substantial risks created by the poor quality of the product.

5.89 Congolese cocoa is primarily exported via Kinshasa and Matadi (there are also fraudulent exports from the production areas located near the northern border of the country). The poor quality of the cocoa production leads to a very substantial discount on the international market (US$300-400/ton). An indicative price for producer is theoretically published by ONC. It is calculated based on international prices and a marketing regulatory cost yardstick, but it is little known by growers and systematically ignored by buyers. Marketing costs are very high due to (i) the low density of the product which increases groupage costs; (ii) the dilapidated state of transportation infrastructure, inefficient and costly transportation and export services (it is estimated that transportation and fob costs may reach up to US$500/ton); and (iii) numerous formal and informal taxes levied at all levels of the chain. Ex field price is therefore low, probably no more than 25% of the product's fob rate. Low producer prices, coupled with low plantation productivity seem to have been a major constraint to village production development in the face of competition from the oil palm, food palms and extra agricultural activities (small-scale mining sector) for family labor force.

5.90 Robusta. For a long time Robusta was a key sector of the national economy and a significant source of revenue both for the national economy and a great number of small-scale growers who were responsible for approximately 90% of the total production. At its peak it employed almost 800 000 households (representing around 5million people), mainly in the Equateur and Eastern Provinces. Today, it is practically abandoned. Official exports which amounted to 107,000 tons in 1989 fell to around 7,500 tons in 2008 in addition to illegal exports of the same volume to bordering (Chad, Sudan, and Central African Republic). The total annual production may therefore be estimated at 15,000 tons. The spectacular drop in production is the result of several factors : (i) "zairianisation" which led to the disappearance of most of the commercial plantations that supplemented village production ; (ii) the prolonged crisis which has affected the country and particularly the large production areas (Equateur, Orientale), resulting in the degradation of the infrastructure and the disappearance of state support services (ONC, MAPE) ; (iii) very low international prices during long periods which eliminated any incentive to maintain non-competitive production compared to other products such oil palms, foodstuffs; and (iv) the incidence of trachemycosis in large parts of traditional production areas.

5.91 The total area neither of coffee plantations nor of those that are still producing is known, but it is clear that a great number of plantations have been abandoned. Based on an estimate of a total production of approximately 15,000 tons of commercial coffee and average yields of about 150/kg/ha (commercial coffee), the area of plantations still producing should not be higher than 100,000 ha. The main producing regions are the Bas-Congo, the Bandundu, East Kasaï, the Equateur and, to a lesser extent Eastern Province. Although certain industrial plantations are still operational today (SCAM in Bas-Congo), the production is largely dominated by village plantations (90% of the total production) Plantations are very old (35-40 years). Industrial plantations were established with selected plant material but most village plantations were established -and still are in those few cases where they were replanted- from very ordinary and very low yielding plants. INERA still has at its stations a few prime Robusta clones, but this material is not distributed to producers[48]. Certain agro-industrial plantations are rather well maintained but all suffer from a lack of labor. Most village plantations are no longer maintained. Industrial plantations and village growers do not use inputs, thereby making them prone to diseases and insect attacks. Yields are therefore very low (at best equivalent to 150 kg of commercial coffee).

5.92 Industrial plantations observe the agricultural calendar and drying is done on cemented surfaces or in static or moving dryers. The coffee harvest by village growers is however very bad. They harvest green and red berries in one stripping, resulting in a number of immature grains (black grains) in the product. The berries are dried on beaten earth. Industrial farms market their production (sales to exporters or roasters for the local market). Village producers sell unhulled coffee either to local industrial plantations or to independent traders who hull and resell it for local consumption or export them to the regional market. Just as is the case with cocoa, producers are paid the same price for good and poor quality coffee.

5.93 In the past, the country had many drying/hulling units spread throughout the production areas. Following the fall in production, the majority of theses centers were closed. Most of those currently operational are obsolete, inefficient, and often cannot meet technological standards. Since it is currently impossible to obtain loans, investment necessary to renew the equipment cannot be made. The age of the orchards as well as poor farming, drying and hulling practices result in very bad-quality commercial coffee. Consequently, DRC's Robusta, formerly renowned for its high quality, is currently subjected to a below par rating on the world market. Just as is the case with cocoa, the farm gate price is therefore low, probably not more than 25-30% of the FOB price of the product. Since coffee requires a significant labor force, these low prices are a major constraint to development, particularly village production, given the competition from oil palm trees and food crops (and even cocoa) and of non-agricultural activities (artisanal mining sector). Any attempt to reinvigorate production must necessarily prioritize improving quality at every level of the chain, perhaps by targeting the production of washed Robusta, meaning using the same wet method used for Arabica which is priced much higher (up to 30% and higher).[49]

5.94 **The threat of tracheomycosis.** The most worrying issue is by far tracheomycosis, a plant pathogen that reappeared in 1983 in the Haut-Uélé and rapidly spread to a large part of the producing areas in Eastern Province and Equateur due to bad management and abandoned plantations (pathogens grow unchecked) and the absence of a concerted program to fight its spread. If it is not aggressively dealt with, tracheomycosis could wipe out Congolese coffee orchards. Programs to combat tracheomycosis - location, uprooting, cleaving and incineration—are well beyond the means of the village producers and those of most of the industrial plantations, and are difficult to implement on the ground.

[48] In addition, as in the case of cocoa, the productivity of these old clones must be tested and may be lower than the most recent clones used in other producing countries.
[49] In the past, Congo's washed Robusta was highly reputed, particularly on the Italian market.

Development Prospects

5.95 **Good prospects for the cocoa.** Development prospects for cocoa production in the DRC seem very positive. Medium term growth of global consumption is projected at 3% with new markets (China, India, Eastern Europe) taking over traditional markets (Europe, United States). The evolution of global production is less certain. Production in Cote d'Ivoire, the leading producer in the world has been hampered by the crisis facing the country and seems to have triggered a structural downturn that other producing countries may not be able to compensate. These developments led to an increase in the global price of cocoa at US$3.400/ton in January 2010, the highest level in more than thirty years. Currently, the price is around 3.100/ton and it is estimated to remain above US$2.500/ton over the medium term. At this price level, even if the Congolese production is seriously below par rating, and if local marketing costs are high, it is possible to offer very competitive prices to Congolese producers, particularly in the areas which are relatively well connected to the market.

5.96 The DRC has great comparative advantages for cocoa production:

- In the best Congolese cocoa producing areas, agro-climatic conditions are as favorable as in Cote d'Ivoire (rainfall levels are very similar but with better distribution). Congo's lands are generally conducive to cocoa cultivation. Good yields can be obtained without applying fertilizer, thanks to good farming methods (shading, cover plants, organic waste or compost) while in Cote d'Ivoire and in other West African countries, the use of fertilizers is now indispensable for obtaining satisfactory yields.
- Cocoa cultivation is not demanding in terms of technique or labor (much less than coffee or oil palms for instance). Processing and conditioning methods are relatively simple and do not require advanced technologies to obtain commercial coffee of acceptable quality.[50] The rehabilitation/extension of wrapping facilities would not require very heavy investment.
- Production systems in Congo are often mixed –industrial plantations surrounded by village plantations—which is favorable to a rapid development of village production.

5.97 **Much gloomier prospects for Robusta.** Robusta global prices have plummeted considerably since 2008 (US$2.30/kg). In 2010, the average price is expected to be US$1.50/kg and to further decrease in 2011 and 2012 since the expected growth in world production, in particular that of Vietnam will continue to affect prices. Given the below par rating of the Congolese Robusta and the very high marketing and processing costs (which is not expected to significantly improve in the short term), the producer price is expected to remain low. Robusta production is burdened by a relatively higher labor requirement in comparison with competing products and is thus expected to remain less attractive for both village growers and industrial plantations (who employ salaried labor). In addition, as regards the latter, boosting production would involve making substantial investment in processing infrastructures (hulling/direct marketing, storage). Lastly, the unresolved issue of tracheomycosis is a great threat to the renewal of orchards.

5.98 **Ways forward.** While it seems possible to revive cocoa production relatively quickly, stimulating the production of Robusta currently seems very problematical. The only possible option could be within the context of a program essentially focusing on reviving cocoa, since the production areas would largely be the same and some of the lands producing both crops may be interested in diversifying, and taking advantage of the economies of scale linked to some equipment and to managing the land. Improving the efficiency of independent traders might also help reduce the marketing costs of both cocoa and Robusta. . It might be foreseeable to have the INERA stations that would participate in reviving cocoa production be also involved in researching Robusta and limited programs relating to plant selection and the multiplication of promising clones. The following paragraphs primarily outline a potential recovery program for the cocoa sector that may nonetheless have a significant beneficial indirect impact on the Robusta sector.

[50] All the more since cocoa is a product that is relatively not differentiated unlike Arabica and tea for instance. It has just three grades: "good fermented", "fair fermented" and low grades.

5.99 **Recovery strategy of the cocoa sector.** A recovery program should be built on a clear vision of what the production structure and the long term management of the sector should be.

- In the long term, production should as elsewhere in the world, evolve towards production systems largely dominated by village plantations, which have two decisive advantages over industrial plantations: easy access to land and use of family labor force which helps them absorb more easily possible falls in the produce price.
- Again in the long term, (i) the role of the State –in accordance with Government policy- should be limited to outlining the development policy of the sector and the establishment of the necessary legal and regulatory framework (competition, taxation..); (ii) the operational management of the sector should be undertaken by a professional group comprising all the actors in the sector (producers, processors, traders, banks…) responsible for the management the sector's common interests of the public goods of the sector : priority should be given to research, assistance in producing selected plants, price and quality policy, campaign organization …).

5.100 Over the short and medium terms, however, due to the absence of the needed critical mass in terms of production, serious shortcomings of the markets (inputs, products, finance) and the lack of capacity at all levels, the sector will not be able to take off on its own, and Government support will be necessary. Such assistance will focus on providing essential goods and services , the coordination required throughout the sector and support to small-scale producers to help them fully participate in the sector's enhanced value.. State intervention must however gradually disappear when the actors of the sector (particularly the weakest among them—the village growers) and the professional group acquires the needed capacity including financial capacity, to manage the sector. It is therefore not necessary to build or rebuild permanent public institutions to fulfill what is supposed to be temporary responsibilities. State intervention should be in the form of specific programs that incorporate a clear exit strategy for direct state intervention.

5.101 This particularly applies to the future role of the Office National du Café (ONC-National Coffee Office) in the development of the sector. Until 1976, ONC had a monopoly in the purchase and export of coffee. After the liberalization of the coffee sector in 1976, the private sector became a dominant actor in the commercial activities of the sector. In addition, due to insecurity in the main producing areas, the Office has for many years now been unable to provide technical training for the producers. Any attempt to give back to ONC key operational responsibilities should be dismissed. First of all, public agricultural marketing offices have been abandoned in almost all countries, with the exception of Ghana, because of their inefficiency that often systematically translated into additional costs that had to be borne by producers[51]. Furthermore, the costs of restoring ONC's former prerogatives in terms of human and physical capacity would be prohibitive. The needed financial effort would divert public resources from other priority activities (infrastructure, social sectors). Therefore there seems to be two options for ONC in the future : (i) become the regulatory body of the sector (but MAPE can also play this role) ; or (ii) become the professional body of the sector, which would imply a delegation of regulatory functions to the Ministry of Agriculture and a radical reform of its statutes, governing bodies (opening it up to all the actors in the sector), its functions and intervention methods, its human capacity and the way in which it is financed, but especially of its internal culture. This second option would also require that the ONC, whose credibility has been undermined in the eyes of the operators of the sector, regain their trust. The choice between both options should be made as part of the participatory preparation of a strategy and an operational program for this sector's recovery.

5.102 **Outline of a recovery program.** A recovery program for the sector may be structured on the following main points :

[51] Cocobod is indeed a curiosity in the African institutional context. It works with relative efficiency based on a ”culture” among Ghanaian producers and the staff of government services built over many years and that is specific to Ghana. It is unthinkable to create this type of “culture” ex nihilo in a country like the DRC.

- Targeting the most favorable areas of the country : well linked to the market and where both village growers and industrial plantations can be found;
- Promoting synergies and complementarities between industrial plantations and village plantations;
- Integrated support at all the critical levels of the sector : production (opening of seed centers and nurseries, production and dissemination of improved plant material among producers, extension services for appropriate techniques) ; processing (support to village growers for drying and fermentation techniques ; support to industrial plantation for the upgrading of their processing and conditioning facilities) and trading (equipment, working capital) ; and
- Implementation largely based on the capacity already existing on the ground and with the actors of the sector, while the Government plays the role of regulator of the sector and temporary "facilitator" (through targeted subsidies during the start up stage).

5.103 Such a program should be implemented by a specialized operator (for instance STCP or an international NGO) for a close vertical and horizontal coordination between the various activities/actors of the sector – lands, cooperatives, buyers, exporters. The program should especially include, in addition to supporting the improvement of agricultural productivity, a "pilot" marketing system to retrocede a reasonable part of the international price to producers and pay for the produce according to its quality. Lastly, the program would be the tool that would help create a true professional association, first in each province and then at the national level.

Need to establish partnerships with the cocoa industry

5.104 Lastly, the recovery strategy of the sector should integrate the new requirements of social and environmental responsibility. In fact, the majority of the companies that used to dominate the trade and the use of cocoa at the international level (Cargill, ADM, Nestle, Mars), gathered within the "International Cocoa Initiative" and the "World Cocoa Foundation" have committed themselves to buying, starting 2020, only international cocoa whose production meets the social (children labor) and environmental standards required by markets in the North. These companies individually or collectively have launched a number of incentives to (i) simultaneous promote cocoa cultivation in the main producing countries (Cote d'Ivoire, Ghana, Indonesia); (ii) diversify their supply sources by supporting production increase in new countries (Vietnam,) ; and (iii) develop traceability and certification systems for cocoa. It seems that it is in the interest of the DRC to establish partnerships with some of the large international companies at the start of the program to revive cocoa, so that this program takes into account the approaches, mechanisms and instruments that will meet their certification expectations. The current production method in the DRC, mostly centered on commercial plantations capable of becoming partners of international buyers, is particularly amenable to such a strategy.

Box 8: "Mars Co" Cocoa Development Centers

Mars launched a program to support cocoa production in several producing countries (Indonesia, Vietnam, Philippines, Papua-New Guinea, Ghana, Cote d'Ivoire…). This program is based on the setting up of "Cocoa Development Centers" jointly managed by local institutions and an international technical partner (in the case of West Africa the "Sustainable Tree Crop Program- STCP" implemented by IITA). These CDCs conduct activities aimed at:

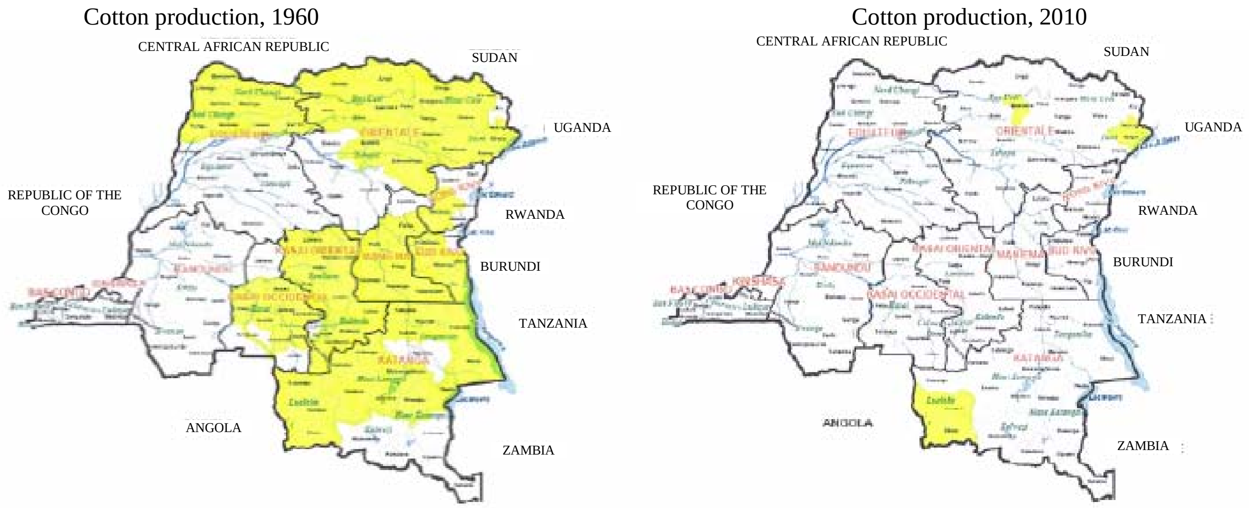
- Improving yields trough the introduction of high yield clones and grafting techniques which help reduce the immaturity period of new plantations ;
- Training producers (field-schools) on "good agricultural practices" to improve farming techniques and produce quality management; and
- Promoting techniques of the integrated control of diseases and insects and agroforestry for a good ecological management of plantations. .

This approach has already given remarkable results: increase in yields (more than 1500 kg/ha for village plantations in Vietnam); enhanced product quality; and social and environmental impact of the production.

Cotton subsector

5.105 In 1960, the DRC was the leading producer of cotton in Africa, with 200,000 tonnes of seed cotton produced by 800,000 small growers and over 53,000 tonnes of cotton lint exported. Cotton growing was fairly distributed throughout the country (Equateur, Orientale, Maniema, Kasaï, Katanga). Production collapsed very rapidly after independence, following the political disturbances and the disappearance of support services for production, cotton being an annual crop that demands a lot of fertilizer and phytosanitary products. By 1977, the DRC no longer exported cotton lint and in 1989 production fell to 11,000 tonnes of seed cotton, 5 per cent of production in 1960. In 2006, it was 800 tonnes produced by less than 5,000 small growers in Katanga and Ituri. Production has now ceased in Katanga and only a few small growers continue in Ituri, selling their seed cotton to CODENOR/SOTEXKI (Kisangani) and to Ugandan ginners.

Figure 35: Cotton production in the DRC since 1960



5.106 Competition from imports has caused the liquidation of all the DRC's textile companies (with the exception of SOTEXKI in Kisangani) and their ginning subsidiaries responsible for providing growers with support and processing their production. The country's textile and clothing requirements are now wholly covered by imports of fabric (lengths of printed fabric) from China or Nigeria, and used clothing.

5.107 Taking into account the level of production reached in the past, the DRC has considerable potential for cotton production and it offers substantial advantages in terms of poverty reduction (it is in fact a crop that is very well adapted to production by small growers) and food security because it is grown in rotation with food crops which utilize the necessary fertilizer financed by cotton. It is, however, relatively difficult to imagine revival of the sector in the conditions foreseeable in the short and medium terms. International prices are, and will probably remain, relatively low (US$1.50/kg.). There is strong demand for textile products on the domestic market (100 million metres corresponding to over 100,000 tonnes of seed cotton), but competition from imports is very keen, as mentioned above. Revival of domestic production would require that the protection measures (tariffs, quotas), called for many times in the past, be strictly applied in the future as in the case of the European Union. Furthermore, such a revival calls for substantial private investment to rehabilitate the domestic textile industry and the associated ginning factories, which appears difficult.

5.108 It would also seem difficult for the DRC to export its lint to the international market because of the long distances between the main zones of production and the export sites (between 900 to 1,500 km.), as well as the high transport costs that this entails. The international price forecast for the medium term gives an f.o.b. price of around US$1,400/tonne for lint. Current transport costs

(US$150-US$200/tonne) and processing costs (US$500/tonne) would allow the payment of a field price of around US$700/tonne or US$250/tonne of seed cotton. This appears too low to give growers sufficient remuneration for their work as they have to deduct the very high price of inputs, fertilizer and insecticides from the field price. Revival of production for export would also require the rehabilitation of ginning plants and the reintroduction of input supply channels, consequently a large amount of investment. It appears very difficult to expect this of private investors without substantial subsidies from the State.

5.2.6 Subsectors with potential and priority development poles

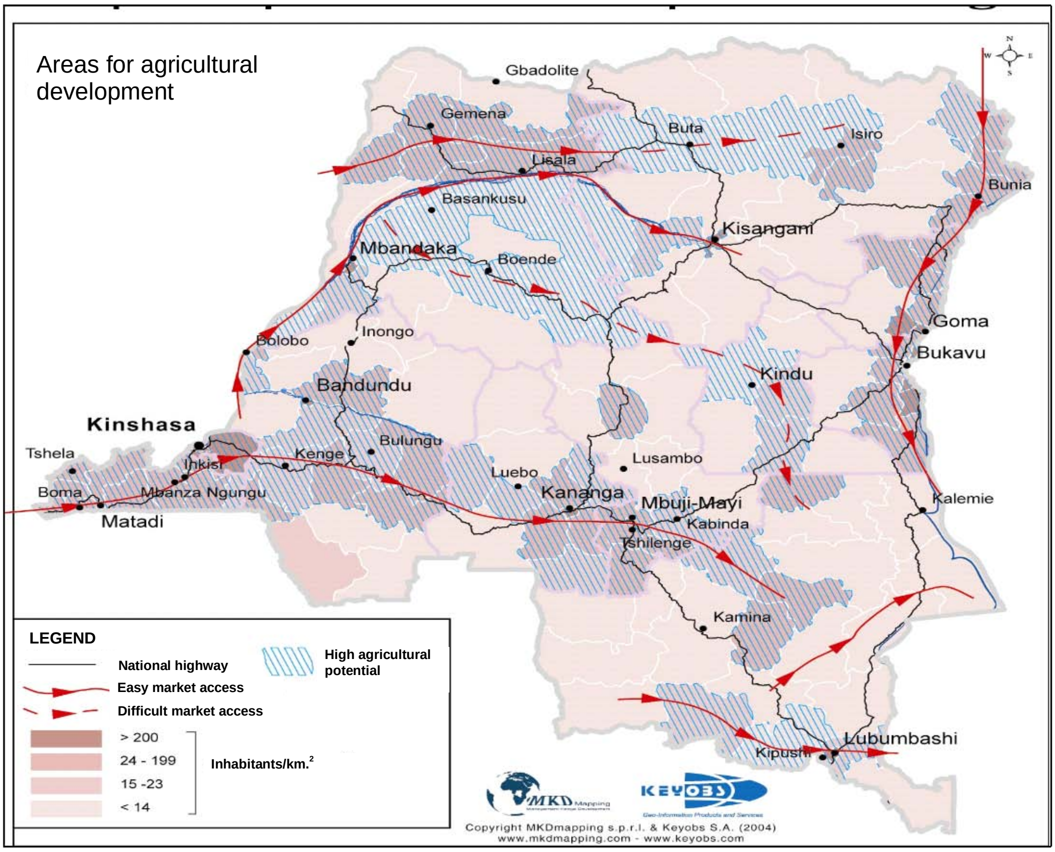
5.109 A rapid return to sustained growth in the agricultural sector means that action by the Government and its limited resources should focus on those regions and subsectors that offer the best prospects for a rapid response in the short and medium terms.

5.110 **Subsectors.** The industrial/export subsectors that appear to have the greatest potential, based on market opportunities and the capacity for a rapid increase in production, are oil palms, rubber, Robusta and cocoa. These crops are particularly well adapted to production by small producers, as are Arabica and tea to a lesser extent because of their low current level of production and the amount of investment required. The prospects for reviving cotton production, on the other hand, appear remote.

5.111 **Regions.** Three fundamental factors determine agricultural production's response to market opportunities, namely, agricultural potential defined by the agro-climatic and hydro-geographical conditions, market access, and population density. In the DRC, many production zones are currently cut off from their potential markets by the advanced state of dilapidation of the transport infrastructure. Likewise, potentially productive zones today only have very low population density, which limits the availability of labour and makes it difficult and costly to provide production support services.[52] Taking this into account, it is possible to identify the regions that have high agricultural potential (HP), relatively satisfactory market access (HM) and high population density (HD). These regions should therefore be a priority in the short and medium terms for the revival of agriculture. These poles of growth are shown in the map below. In addition to the areas supplying the needs of large cities, they include: the Matadi-Kasaï Oriental axis, the supply areas for the Katanga mining basins, the Great Lakes region, and the northern loop of the Congo River.

[52] Population density tends to be higher in areas that have good agricultural potential, as in the highlands of the Great Lakes region, and good market access, as people will move to such areas in search of better income opportunities.

Figure 36: **Areas for agricultural development**



5.112 The meeting point of the subsectors with potential and the growth poles enables the following table of priorities to be drawn up:

Table 16: **Table of priorities according to subsectors with potential and agricultural growth poles**

	Axis 1 (from the Atlantic to Kabinda - East Kasaï)	Axis 2 (hinterland mining cities in Katanga province)	Axis 3 (Great Lakes region)	Axis 4 (northern part of Equateur)
Priority subsectors	*Palm oil, rubber, cocoa* (*cotton*) Cassava, maize, rice, groundnuts, vegetables, plantains, fisheries products, livestock, sugar cane	 Groundnuts, vegetables, sugar cane, large and small grazing animals, aquaculture	*Arabica, tea, cinchona, Robusta* Beans, cassava, maize, rice, plantains, vegetables	*Robusta, cocoa, palm oil, rubber (cotton)* Cassava, maize, rice, groundnuts, beans, plantains, vegetables, coffee, cocoa, large and small grazing animals

5.2.7 Cross-sectoral constraints

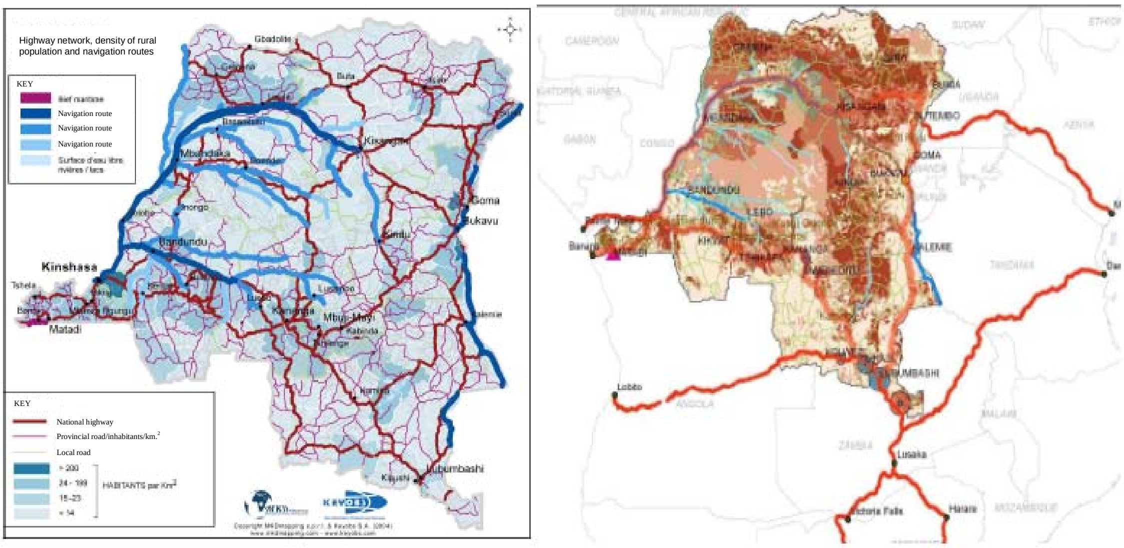
5.113 Agricultural producers' response to the opportunities afforded by local, regional and international markets depends on a number of factors that will affect both the field price for their production, productivity and agricultural costs as such. Consideration of each of the major industrial/export subsectors has highlighted their special features because of their geographical situation, their production methods and the institutional organization of the subsector. It has also shown that the main constraints on their recovery, at least in the first stage, are essentially cross-sectoral:

(i) Access to markets, both in terms of transport infrastructure and access to information, but also in the future in terms of quality and health safety;
(ii) access to and management of land resources;
(iii) availability and productivity of the active labour force;
(iv) access to technology (equipment, inputs) and to high-yielding plant material because this is a crucial factor for perennial crops as it has an impact on agricultural productivity in the long term, and also access to advice;
(v) access to loans, particularly for the investment needed to rehabilitate plantations and agro-industrial equipment;
(vi) the business climate, administrative constraints;
(vii) the very poor organization of the agricultural environment and the lack of support from Government services. Constraints caused by action by the public authorities and by the transport infrastructure are addressed in detail in Chapters 2 and 3 and will only be referred to briefly below.

Access to markets

5.114 At the time of independence, the Congo's transport network consisted of a multimodal network of 152,000 km. of highways and rural roads, 16,200 km. of navigable routes and 5,000 km. of railways. As shown in the maps below, this network can be broken down into three internal axes and five external access corridors. The three internal axes make up a triangle that interconnects the country's three largest cities, Kinshasa, Lubumbashi and Kisangani. They are essential for supplying consumption centres and for moving production from the country's major agricultural provinces. The five external corridors link the DRC to major regional and international markets: Kinshasa-Pointe Noire, Lubumbashi-Durban, Lubumbashi-Dar es Salaam and Lubumbashi-Lobito, opening up the Katanga mining basin to southern Africa, the Indian and Atlantic Oceans; Goma/Bukavu-Mombasa or Dar es Salaam, opening up the eastern part of the country to the Indian Ocean.

Figure 37: Highway network, navigation routes and density of rural population



5.115 Following decades of neglect, a large part of this network is no longer operational. The secondary routes, whether on land or water, are virtually no longer usable, cutting off the major part of the production areas (in particular, for food crops) from the major centres of consumption. The deterioration of the major internal transport axes including the Congo River loop essential for channelling agricultural production from Equateur, Eastern Province and Bandundu to Kinshasa greatly hampers traffic, increases the time for the journey and raises transport costs, weighing heavily on the competitiveness of local production. Transport costs can in fact amount to US$0.20 per tonne/km. compared to US$0.13 per tonne/km. in other Central African countries and US$0.05 per tonne/km. in southern Africa, not only because of the state of the infrastructure itself but also (i) the inefficiency and high cost of under-developed and oligopolistic transport services; and (ii) numerous instances of harassment and levies (both official and unofficial) imposed by the armed forces and the myriad national, regional and local institutions.[53] In 2004, the Government launched a programme to rehabilitate the major components of the transport infrastructure. This programme - Pro-Route - is currently being implemented and covers the repair of over 15,000 km. of priority routes (i.e. one tenth of the total highway network). This should enable vehicle operating costs to fall and, as a result, the cost of transport. To revive agricultural growth, however, the Government will also have to tackle other factors - transport services and racketeering - which weigh heavily on transport costs and thus on the competitiveness of Congolese agriculture.[54]

5.116 In addition to rehabilitating the main road axes, rural roads linking production zones to the main road or river transport axes will also have to repaired and maintained. This is a problem that is usually very difficult to resolve in almost all African countries and even more so in the conditions and institutional environment of the Congo. The Ministry of Rural Development is in principle responsible for the upkeep of farm roads and feeder roads, but has never had the necessary resources to do this. A decentralized approach has been adopted, involving the main users of the roads through the creation of CLERs.[55] This approach has had very mixed results because of the lack of resources and the difficulty of mobilizing the actors concerned over a long period. Other approaches such as the introduction of tolls have almost always ended in failure.

[53] For example, the cost of transporting tea or Arabica between Kivu (Goma, Bukavu) and Mombasa is estimated to be US$300-US$350/tonne compared to the US$150/tonne paid by Ugandan and Rwandan producers for distances that are only slightly shorter.
[54] It is estimated that a 10 per cent reduction in transport costs would result in a 6 per cent increase in agricultural production, i.e. elasticity of 0.6 for agricultural production *vis-à-vis* transport costs. If such a reduction was implemented over a period of ten years, this would add 0.6 per cent to annual agricultural growth.
[55] With support from Belgian cooperation in particular

Box 9: Maintenance of rural roads, a challenge difficult to meet

Welthungerhilfe (German Agro Action), a German NGO, has implemented a project to rehabilitate a rural road network in Kivu and Ituri, financed by the European Union, with the principal aim of ending the ongoing isolation of rural areas. It tried to set up a system for the management of the routes rehabilitated so as to extend their life span, but came up against lack of cooperation on the part of users, as well as lack of political will by the local administrative authorities.

Wet-season barriers were installed on the rehabilitated roads in 2002, but have never been respected by users, neither by MONUC, which uses the roads with all sorts of vehicles and heavy equipment, nor by other users. There is no system for ensuring respect for the rules: no follow-up of transgressions, none of the 100 complaints made against transgressors ended in a penalty and the poles set up on the road during the rainy season were removed and taken by unworthy citizens.

It has so far proved impossible to introduce regulations limiting the weight of vehicles on certain routes owing to lack of support from the political authorities at every level.

A road toll was introduced in North Kivu with the following rates: US$25/truck, US$12/van, and US$6/automobile. The tolls bring in some US$2,000 to US$3,000 each month and should be used to pay for maintenance in the form of one road-mender per kilometre and one foreman for every ten road-menders. The tolls are administered by local elected committees, which receive no support from the local authorities. For example, on the Saké-Masisi-Walikalé route, the 10 per cent of the toll supposed to be transferred to them for maintenance work, which goes through the provincial governorate, has never been transferred to the ad hoc account.

Access to land ownership

5.117 Population density in the DRC is not very high overall (22 inh./km^2) and only a small proportion of arable land is currently cultivated. Despite this, the problem of access to land is becoming increasingly urgent in a growing number of areas. This is particularly the case in areas where the population is dense because the soil is fertile, and there are communications links and essential services and markets for products nearby: the agricultural supply areas around the country's major cities, the Bas-Congo-Katanga corridor, areas around the loop in the River in Equateur and in Eastern Province, but above all in the Great Lakes region, where population density is very high (over 200 inh/km^2). Land tenure problems have long been the source of several disputes. Highly productive areas with high population density and good access to markets and services are also priority areas for a strategy to revive agricultural production. The problem of access to and management of land resources therefore has to be resolved if it is not to become a major constraint on the sector's development. In the longer term, land tenure problems will also become more acute in the country as a whole.

5.118 At present, while the creation of small traditional farms does not appear to pose any problems in general, the same is not true of the establishment of large agricultural concessions. The problem is not only one of availability of land. It is also socially and politically sensitive. The colonization policy prior to independence, but also the policy implemented by the authorities after independence in order to exploit the country's natural resources, including the promotion of commercial agriculture under the 1966 Bakajika Law, led to the granting of large mining, forestry and agricultural concessions. The latter in all regions, but particularly in those most propitious to the development of private enterprises (high potential, access to markets), which were also the most densely populated. In Bas-Congo, Equateur, Kivu, in fact, the population was dispossessed of its property and customary rights and, as a result, of its means of production/subsistence. This obliged part of the population, inparticular youn men, to migrate to other regions in search of employment and an income in the industrial cities or the mining regions.

5.119 The accelerated development of the agricultural sector, in particular that of industrial and/or exportation crops can only occur with the support of modern and large farms with access to markets and the ability to mobilize the necessary funds and resources. These large farms –by providing neighboring family farms with an access to the market and services they need, as part of contract farming—will complement the efforts by the Government to promote the development of family agriculture, the only activity that can achieve strong and sustainable growth in the sector and have a major impact on poverty reduction. However, the war highlighted the resentment created by the allocation of large concession without consultation with local farmers and traditional chiefs and without compensation. It is therefore imperative for the Government to implement a national land policy reform that will lead to the harmonious and mutually beneficial development of modern agriculture and family agriculture. This can only be possible if the rights of all the stakeholders, particularly those of the weakest actors are identified and known. The Ministry of Agriculture has adopted *Agricultural Code* dealing, *inter alia*, with land resources[56]. The Agricultural Code provides for the creation of (i) an agricultural land register at the national and provincial levels; (ii) local land committees in the territories to participate in the transparent and fair management of land resources. It also recommends a review of the status of the large agricultural concessions and possibly the cancellation of those that are not being developed.

5.120 Beyond the provisions of the new Agricultural Code, it is necessary to quickly introduce a reform of land legislation as a whole to adapt it to the various ongoing demographic, economic, social and environmental changes in the DRC. Recently, the Ministry of Land Affairs created an interministerial working group to give further thought to the issue. This working group is not yet operational and it seems urgent that it start its work as soon as possible. The main issues must include, to allow for the efficient and fair development of rural areas, the formulation of a new policy on agricultural concessions which (i) clarifies and harmonizes policies on agricultural, forest and mining concessions, and (ii) takes specifically into account all the related economic, tax, social and environmental issues. This preparation should be based on the main principles set out in the new Forest Code recently approved by the Government (recognition of traditional rights and participation of thelocal population in the profits, rational and sustainable development, compliance with environmental standards , biodiversity) and the best practices available on the issue, such as the land policy in Mexico, the new policy on agricultural concessions in Liberia or the code of good conduct adopted by the Roundtable on Sustainable Palm Oil (RSPO) instituted in Malaysia in 2003 to promote the sustainable development of the oil palm.

[56] The goal of the agricultural land register is to: initiate contracts on agricultural land concessions; ensure proper administration of rural lands, record the development of agricultural lands; keep cartographic documents on rural or agricultural lands. Local committees are entitled to make decisions on disputes relating to collective and individual land rights, and to participate in investigations conducted prior to allocating rural land concessions, and on a regular basis check, at least once a year or upon request from the provincial governor, the effectiveness of the development of the land conceded by the State.

Box 10: Forest Code: principles of zoning and rational use of natural resources

The DRC's natural resources are used for different purposes by actors whose interests often diverge and need to be reconciled. Since the late 1980s, the State has recognized the need to ensure the sustainable use of the country's natural resources - land, forests, minerals - for both present and future generations. This initiative was, however, undermined by the socio-political disturbances of the 1990s. The preparation of the new Forest Code, begun by MECNT in 2003, led to the definition and adoption of the guiding principles for zoning and the rational use of the country's natural resources. These principles include: (i) participation by all stakeholders - the local population and indigenous peoples, civil society, the central and provincial authorities concerned (environment-forestry, land use planning, agriculture, rural development, mining, mining register, hydrocarbons, energy, interior, planning, etc.) in the zoning work; (ii) recognition of the need to superimpose the various user rights over the same area where various actors should be able to exercise different types of rights and activities: for example, the holder of a forest or mining concession has the exclusive right to commercial use of the products specifically mentioned in the concession contract, but the local population has the right to continue customary uses such as agriculture and gathering/sale of certain secondary products of the forest (on the basis of the development plan for the concession approved by the authorities and the concessionaire).

5.121 This new policy on concessions should apply in particular to foreign investment intended to develop very large areas. The use of under-exploited (or rather non-exploited) resources by outside investors can generate jobs and progress in agriculture. Nevertheless, it has to be ensured that this investment does not harm the local population but, on the contrary, that they are fully associated in its design and implementation and derive tangible benefits.

Access to labour

5.122 The labour market presents another paradox. With a galloping birth rate, a non-existent industrial fabric and mass unemployment, it might be thought that there would be no problem in recruiting agricultural (active) labour. This is not the case: most large agricultural exploitations indicate problems not only in mobilizing skilled personnel (agricultural technicians, mechanics, heavy equipment operators), but also unskilled and inactive labour. The violence in the country caused mass rural migration. Like everywhere else, the first to go were the most energetic young men. This labour shortage is particularly acute in areas where alternatives exist, for example, in the mining basins in the East and in Katanga, as well as in light industry in the towns. Skilled technicians are extremely rare and large agricultural enterprises often have to train their personnel themselves. This not only involves sizeable additional costs but the enterprise also runs the non-negligible risk of seeing its personnel go off to seek alternative employment elsewhere once they have been trained. Furthermore, labour productivity is generally very low and affected by a high rate of absenteeism, up to 20 per cent on some plantations.

5.123 The negative impact of the skilled labour shortage and its low productivity on the competitiveness of agricultural enterprises is exacerbated by the obligation to pay farm labourers the SMIG (Interpersonal minimum wage) , which is currently around US$2.00/day (lower than its original figure of US$3.00), fairly high in comparison with other competitor countries in Africa or Asia. The plantations sector was able to negotiate a special regime of US$1.50/day, which is still high, particularly in view of the very poor productivity of labour in the DRC. Although the principle of protecting labour against wage exploitation is well accepted, it is nonetheless true that applying the SMIG, at the outset originally intended for urban workers (and even inhabitants of Kinshasa), to workers in rural areas where the cost of living is much lower, has little justification. It can even be counter-productive by hampering the competitiveness of enterprises and hence their capacity to generate jobs. Moreover, this measure can have a pernicious effect by forcing large agricultural enterprises that cannot pay the official SMIG to engage constantly in "negotiations" with the labour inspectorate. These negotiations are often a source of harassment and arrangements that are not beneficial to workers but rather to officials in the administration.

Access to credit

5.124 As noted in Chapter 2, access to credit is in general very limited in the Congolese economy. The banking system comprises more than twenty commercial banks, which have branches mainly in Kinshasa and the major provincial towns. It is estimated that at present there are no more than 300,000 bank accounts for a population of 65 million. There is also a growing group of savings and loan cooperatives (COOPECs), mainly in Kinshasa, Katanga, Bas-Congo and the Kivus (there are as yet none in some provinces such as Bandundu). Many COOPECs are, however, facing serious management problems and their financial situation is very fragile. For the time being, only 90 COOPECs have been accredited by the Central Bank of the Congo, which has started to regulate their development more closely. Lastly, there are many microcredit initiatives started up by NGOs and/or under development projects, but in general they are of very limited scope and their viability is uncertain.

5.125 Banks and COOPECs provide short-term savings and credit services. Neither type of institution offers medium-term loans. Loans carry high interest rates (40-50% for loans in CF, 16-20% for loans in USD) and are required to be guaranteed by assets that are beyond the means of most borrowers. The only institution offering medium-term loans is the Industrial Promotion Fund (*Fonds de Promotion de l'Industrie, FPI*), a public institution that was created in 1989 to finance economic activity and investment. FPI loans carry a highly subsidized interest rate (15% for loans in CF) and thus demand from investors is high, but FPI's resources are limited[57] and obtaining a loan is difficult. Credit conditions of payback within 5 years, with possibility for 1 year deferral, are not compatible with the risks of agricultural production. As there is no other source of financing, agricultural investors, like all investors in DRC, need to look 'off-shore'. Needless to say, this option is not open to many potential investors.

Box 11: Access to credit - a constraint for producers of tea and Arabica

The return to stability has enabled many tea and Arabica planters who remained in Kivu despite the upheavals to consider expanding their activities. Some outside investors have also expressed an interest. However, the investment required is substantial. A new tea plantation costs around US$3,000/ha and the cost of a processing facility for a 500 ha plantation is US$2 to US$3 million.

All existing or potential investors emphasized to the mission the impossibility of obtaining medium/long-term loans to finance such investment. This obliges them to move ahead slowly, in line with the own funds available. Most of them are under-capitalized after years of disturbances and often pillaging aggravated by by wars and rebellions which means that investment can only be made slowly and that the response to better market opportunities and an improved business climate will only be very gradual.

5.126 To remove this constraint, the Ministry of Agriculture, in its new Agricultural Code, proposed the creation of two new institutions: (i) a National Agricultural Development Fund, financed from the budget and granting medium and long-term loans on concessional terms (4 per cent per annum) for investment in commercial exploitations; and (ii) Provincial Agricultural Development Funds, financed from the provinces' budgetary resources, granting subsidized loans (2 per cent per annum) to finance family farms. The DRC's past experience with the Crédit Agricole was not positive and these new institutions will have to demonstrate a high level of transparency and rigour in their management if their support for agricultural development is to be effective. Another unknown factor is the Government's capacity, at the national and provincial levels, to mobilize the necessary resources. Although the desire to reserve resources for small family farms is legitimate, the advantages of creating these two different credit institutions for medium to large exploitations and family farms is not self-evident. Targeting in this way increases the complexity of the system in a context in which human resources are rare and controls very difficult to put in place. It would appear

[57]Revenues are around 20-25 million USD per year, coming from a 2% tax on certain products such as ciment and tobacco, a non-negligible part of which is used to fund the insitution itself.

that in the medium term at least very few family farms will be able to make effective use of and/or manage the loan resources. The simplest and most effective way of supporting their development would be to grant investment subsidies or distribute selected seeds and seedlings. As for the large commercial exploitations, it would appear appropriate for the Government also to explore the possibility of: (i) granting partial subsidies for priority investment (for example, investment which can also help to develop the village-level sector: extraction of palm oil, washing facilities for Arabica, tea factories); and (ii) offering partial security for the financing granted by commercial banks.

Access to essential inputs and agricultural services

5.127 Development of agricultural production in the short and medium terms at least should focus solely on increasing the area under cultivation. Essential agricultural services (access to selected seeds and inputs, advice, research) have for many years been virtually non-existent. In the longer term, such services will once again have to be made available to producers to allow modernization, intensification of production systems and the competitiveness of Congolese agriculture. It is thus important to start rebuilding national schemes immediately in order to generalize, disseminate and reappropriate agricultural technology, with priority to be given to access to improved plant/animal material for producers.

5.128 **Promote access to improved plant material.** Currently, the national seed subsector, like all branches of Congolese agriculture, is completely dismantled. All the links in the seed chain, research (INERA), the public seed service (SENACEM) and seed producers (private, NGOs) have either ceased their activities or are facing great difficulties. Agronomic research (INERA) is incapable of responding to national basic seed requirements. So-called "certified" seeds are produced by a few rare individuals, so-called "autonomous" seed nurseries (formerly the State's seed nurseries) and a network of NGOs supporting farmers' associations and groups (some of these operators do not have the right qualifications and are even unscrupulous), essentially for emergency programmes (FAO, HCR, ICRC, CARITAS), which buy seeds (sometimes simply "good for sowing") for distribution to the most needy farms. The official monitoring and control services are very weak. Lastly, there is as yet neither seed legislation nor any permanent consultation structure, nor any official catalogue of varieties, nor any legislation on quarantine capable of protecting the country against diseases brought in by imported plant material. This situation, in a legal and institutional vacuum, has led to the development of a market for poor quality plant material, thereby having a negative impact on the profitability of farms and on any efforts to intensify and securitize agricultural production.

Box 12: A promising initiative: production of mosaic-resistant cassava cuttings

Several donors are supporting the production of cassava, which is by far the most important food crop in the DRC and is, therefore, of strategic importance for food security: the Belgian Government, FAO, the European Union and USAID/SECID. SECID, financed by USAID and in collaboration with IITA, has propagated and distributed four mosaic-resistant varieties of cassava. The project "Food security and income generation through assistance to small producers and support for INERA for a sustainable increase in cassava production", financed by the EU and implemented by FAO, has set aside several fields for the multiplication of healthy cassava cuttings in the five provinces covered (Kinshasa, Bas-Congo, Western Kasaï, Eastern Kasaï, North and South Kivu). The plant material distributed will increase yields two to three times. The number of cuttings distributed so far covers barely 1 per cent of the country's total requirements, but it appears that many farmers are willing to buy cuttings at market prices, which opens up the possibility of entering a commercially viable production stage whose development could be based on private initiative.

5.129 Very few farmers have access to improved plant material. Some industrial operators (oil palms, rubber, Arabica, tea, and maize as well in Katanga) directly import improved varieties from neighbouring countries (Kenya, Uganda, Zambia) to meet their own needs. Small producers have no access to improved varieties, except for a few of them who benefit from NGO or emergency or support programmes.[58] The impact of these activities is not only limited in spatial terms, but above all the enterprises have no strategic vision and no concern for the long term. If they continue, they risk being an obstacle to any private initiatives and, consequently, hamper the future development of a viable national seed programme

5.130 The Ministry of Agriculture has prepared a draft law to regulate the seed industry, which defines the bases for its organization and development, determines the criteria for engaging in the seed profession in the DRC, and defines the methods and criteria for controlling the production and marketing of seeds. It has also drawn up a PNS, which during the first phase will ensure the transition between emergency programmes and the eventual introduction of an efficient seed subsector able to respond to the need for seeds and seedlings of the quality demanded and to evolve in line with the overall development of the agricultural sector. The Government's strategy clearly separates the regulatory/control functions, belonging to the public sector, from multiplication/distribution functions, which involve the private sector/NGOs. It is important for this law to be adopted as soon as possible and for the PNS to be launched without delay.

5.131 Undoubtedly, in the short and medium terms, effective demand from family farms will be very modest, especially for food crops. In general, food crops have traditionally been for own use and the traditional system of production, which accounts for over 90 per cent of farms, only uses the seeds kept back from the previous harvest. Those which use improved seeds receive them free of charge from various actors (development projects, other forms of support, emergency assistance programmes, etc.). It is true that demand from farmers is starting to be seen, especially for resistant varieties of cassava and for some perennial crops such as oil palms and Arabica, but these remain the exception. In the short and medium terms, development of the seed scheme will have to be based to a large extent on public financing and on donors, which is amply justified both by the under-capitalization of family farms and by the Government's food security objectives. In the case of perennial crops, it would be advisable to explore forms of collaboration with industrial exploitations/large properties already operating to ensure that small planters receive selected plant material.

5.132 **Better access to inputs.** There are no reliable statistics on the use of fertilizer, phytosanitary or veterinary products in the DRC. It is clear that their use has declined since independence, in parallel with the contraction in the modern sector. Today, only some large exploitations (sugar, oil palms, livestock) and semi-urban producers use such inputs (small growers of cotton also used them, but this crop has all but vanished). Family farms do not use any, and even the majority of large properties still existing and growing tea and Arabica use few if any because of their excessive cost owing to transport and supply difficulties and harassment. In fact, the distribution networks have virtually disappeared. Public networks (SENAFIC, ONC) have ceased their activities and the private sector has not taken over because of the lack of actual demand and logistical difficulties. There are some importers/wholesalers (SETRACEM and LEYDIA, for instance) but they are not very widespread.

5.133 The creation of private networks for distributing inputs is a long-term endeavour. Luckily, fertilizer is not yet a priority in most regions where extensive agriculture is still possible. Moreover, the use of fertilizer without selected plant material would not be economically profitable. In the medium term, demand for inputs will be extremely limited and will only come from large commercial exploitations (PHC, Compagnie Sucrière, JVL, large maize producers in Katanga …) able to obtain supplies themselves. Small producers will only have access either through

[58] For example, an INERA programme for cassava, in collaboration with IITA, has enabled the propagation and distribution of mosaic-resistant varieties.

development projects (most likely through the creation and strengthening of producers' associations) or within the contractual framework, through an industrial operator - oil palms, rubber, tea, cotton - wishing to develop village plantations in order to increase its source of the raw material. In both cases, it is likely that development of such networks will require support from the State, first of all by making agricultural inputs exempt from any taxation, including customs duty, and then by subsidizing the creation of distribution structures.

5.134 In the short term, the DRC will have to introduce a legislative and regulatory framework to support development of the sector and, for public health reasons, to control the import and distribution of fertilizer and phytosanitary and veterinary products, in compliance with various international conventions such as those of Stockholm, Rotterdam, etc., and relevant regional policies (SADC, COMESA). Although the MAPE services and OCC are responsible for controlling the quality of official imports, these controls are not always effective because of lack of resources. In addition, there are uncontrolled imports from neighbouring countries. The State's inability to control the import and distribution of phytosanitary and veterinary products constitutes a significant risk for public health and the environment. The Government has already adopted a new phytosanitary law and prepared an animal health law (not yet approved). It would therefore be advisable to take the following measures: (i) adopt the new animal health law; (ii) harmonize domestic legislation and the texts and regulations governing the approval and distribution of fertilizer, phytosanitary and veterinary products with international conventions and SADC/COMESA policies; and (iii) reinforce all human, material and financial resources, the plant protection services (DCSP) and the quality control services for veterinary medicines.

5.135 **Restore access to agricultural advisory services.** The Ministry of Agriculture's SNV has not received any funds for many years and is no longer operating. Cotton-growing companies have all ceased activities, as a result the support they gave to small producers has also ceased. Likewise, ONC no longer has any production support services (coffee, cocoa). The vast majority of producers therefore have no access to agricultural advice. A few extension activities are still being undertaken in the field by NGOs and religious groups, or are supported under emergency programmes which take responsibility for logistics and the operating costs of the extension activities. The restoration of efficient advisory services will be a long and difficult task. By definition, such services are highly decentralized and require intensive management by technically competent and motivated personnel. The Ministry of Agriculture no longer has the necessary human resources and cannot finance such services from its own resources.

5.136 There therefore needs to be a multifaceted, decentralized advisory system administered in close cooperation with producers' associations themselves, mobilizing all available operators in the field (private, NGOs …)[59] in support of producers and focusing action by public services on financing, organization, professionalization and follow-up to advisory services. The new Agricultural Code envisages the creation of an agricultural council to act under the guidance of the agricultural management councils to be set up in each province or district in order to ensure consultation and synergy among the provincial Government, local authorities, the private sector and producers' associations in order to reorganize the rural environment and support agricultural production. Advisory services should be deployed in the most suitable areas (high production potential, access to markets, high density of population/agricultural exploitations) in order to maximize the impact of the advice and should be closely integrated with the relevant research programmes for the principal systems of production in the area.

[59] Some pilot programmes have already been launched in recent years with financing from the European Union and/or FAO, based on the "field school" approach. A "field school" is a group of 20-25 farmers who are trained to identify problems and disseminate appropriate technology among producers in their area. This approach appears promising and could be adopted more widely.

5.137 **Rebuild the agricultural research system.** INERA, which in the past had a reputation for excellence, is falling apart. With the exception of the M'vuazi centre, which still has some research programmes, the research stations have been all but abandoned and have no research programmes. INERA's activities are currently confined to programmes undertaken in the context of emergency projects and partnerships with international centres and subregional networks (cassava with IITA, maize with CIMMYT, rice with AFRAO). Since 2004, INERA has received support from the European Union and Belgium to rehabilitate in part 12 INERA centres and stations and make them capable of meeting producers' demand for improved plant material. This support also finances studies prior to reviving the national agricultural research system in the DRC. Within this framework, in 2004-2005 and in 2009, physical and organizational audits of INERA were conducted.[60] They highlighted the serious problems and the malfunctioning of the Institute: (i) most of the stations have been pillaged and very little investment has been made over the past 15 years; (ii) none of the stations has received funds from the Government for the past ten years and their functioning is wholly dependent on the resources made available by partners (FAO, IITA, CIAT, IRM and others) and resources generated (seeds) by the stations' own activities; (iii) the personnel is numerous (over 3,100 employees and around 1,600 ancillary staff "awaiting retirement"), of whom only 390 are researchers (12 per cent), the remainder are administrative or subordinate personnel with few qualifications (no scientist at doctorate level, only ten with higher degrees), ageing and demotivated; (iv) a non-existent scientific vision/strategy; (v) very few links with other support structures in the agricultural sector (seeds, advice); and (vi) deficient administrative management, non-existent information and internal control systems and non-transparent financial management (no financial accounts).

5.138 The Institute's current deterioration means that strategic consideration must be given to reviving agricultural research in the DRC as soon as possible. This is extremely urgent. Rebuilding an efficient research system requires sound bases (institutional framework, scientific management, human resources, financial situation, administrative and financial management). The strategy to revive agricultural research should take into account the financial and human resources available, which are very limited. This means that the strategy must: (i) involve major reorganization of the base; (ii) focus in the medium term on research and development and on a limited number of research themes (production of food crops and strategic industrial crops) identified through a participatory process; (iii) mobilize all stakeholders in research, institutes, universities, NGOs, private companies … , and base itself on close partnership with producers, users of the research and international and regional research institutes; (iv) establish close links with seed producers and extension systems; and (v) utilize financing mechanisms to ensure that the system responds to users' demands and to securitize funding in the long term.

5.139 The first measures to be taken by the Government to prepare this revival should be: (i) an in-depth institutional review of INERA, including: analysis of the Institute's governing bodies, evaluation of personnel, preparation of a plan for the redeployment/management of human resources, initiation of a financial audit, and preparation of a financial reorganization plan; and (ii) updating of the Master Research Plan "Master Plan" (drawn up in 1984 and revised in 1991, but seemingly still relevant) in order to determine broad guidelines for INERA from the point of view of the nature of its scientific programmes and their administration, the dimensions of the Institute itself (geographical, human resources), partnerships to be sought and means of financing to ensure its long-term viability.

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[60] Financed by the European Union, "*Evaluation des capacités opérationnelles des stations de l'INERA*" (Evaluation of the operational capacities of INERA stations), Moïse HOUSSOU, October 2004; and "*Audit organisationnel et financier*" (Organizational and financial audit), Philippe Pingannaud and Francis Tshamala, June 2009.

Institutional framework and business climate

5.140 The agricultural sector's development will basically depend on private investment to be made in the sector and its profitability. As indicated above, the competitiveness of Congolese agricultural and agri-business enterprises is jeopardized by (i) the low productivity of skilled and unskilled labour; (ii) low agricultural yields because of the difficulty of obtaining access to improved plant/animal material and other inputs; (iii) the cost and unreliability of the energy supplies they need; and (iv) the problem of access to loans and investment to allow them to modernize their production base. To these structural constraints must be added a hostile business climate and endemic corruption that not only raises the cost of activities but also the risk run by enterprises, as described by the FEC, together with a business climate that is globally extremely difficult. The DRC occupies 181st place out of 181 countries examined by the World Bank in its "Ease of Doing Business 2009" and 158th place out of 163 by Transparency International. Among the factors which make the climate particularly hostile, the FEC cites: (i) a proliferation of taxes that are complex and not very transparent, levied by multifarious national, regional and local entities (the IMF has counted over 900), which often means discretionary interpretation on the part of Government officials; (ii) generalized corruption in public services, leading to omni-present racketeering and generalized "facilitation" levies; (iii) the high cost and uncertain issue of judicial proceedings; and (iv) an Investment Code that is not very attractive, especially for agricultural and agri-business enterprises whose investment is usually for the long term and relatively high risk.

5.141 **Port taxation that is relatively favourable, but extremely prejudicial formalities**. In 2002, the Government introduced relatively favourable tariff protection. Taxes on inputs and agricultural machinery are low: a 5 per cent tariff plus turnover tax of 3 per cent, giving global taxation of 8.15 per cent. Imports of food products are taxed at a level which in theory gives local producers reasonable protection: a 10 per cent tariff plus turnover tax of 13 per cent, giving total tax of 24.3 per cent of the c.i.f. value for staple goods (rice, maize, meat and frozen fish); and 20 per cent plus turnover tax, giving total taxation of 35.6 per cent of the c.i.f. value, for products other than basic essentials (refined edible oils, top quality meat and fish). This protection is in principle satisfactory but is frequently undermined by fraud, which significantly diminishes the real protection given to local producers despite the controls conducted by OCC (and now BIVAC). Lastly, agricultural exports are also subject to moderate taxation, at least as far as customs taxes as such are concerned (0-2 per cent of the f.o.b. value). To these taxes, however, must be added the levies imposed by myriad institutions (OCC, ONC, MAPE, OGEFREM, BCC, Province), which bring the overall tax on exports up to around 11 to 13 per cent, to which must still be added "multiple facilitation charges" which private operators have to pay in order not to delay their exports, adding some 3 to 4 per cent of the f.o.b. cost to the export cost.

5.142 The levies imposed on exports by various entities are sometimes superfluous and often have no real counterpart in terms of the services given to exporters but correspond rather to straightforward income extracted at their discretion by entities or individuals. The most damaging effect of the proliferation of controls and taxes[61], however, is not their direct impact on the cost of exports but the fact that they unduly prolong the duration of export formalities, during which the goods and the loaded truck transporting them are blocked (from one to several weeks). This means substantial penalties for the carrier (US$250/day) and explains why the cost of transport from Bukavu to Mombasa (US$220/tonne) is almost twice as high as that for transport from Kigali to Mombasa (US$120/tonne) for the same goods and virtually the same distance. This surcharge is called "the Congo tax". It is one of the main reasons for the mass fraud that affects exports of Arabica from Kivu in parchment form via Rwanda or Uganda.[62]

[61] Over 20 different entities conduct "controls" and levy taxes on the export of Arabica or cinchona at Bukavu.
[62] It is estimated that the volume exported illegally is at least equivalent to the exports declared to ONC.

5.143 The structural constraints on Congolese agriculture will take time to remove. In the short and medium terms, the Government should try to take all the measures it can to enhance the sector's competitiveness, thereby promoting its development. Such measures include: (i) abolishing all taxation on imports of inputs and agricultural machinery, as well as on agricultural exports; (ii) more attractive incentives under the Investment Code for investors in the sector, in order to take into account its specificity; and (iii) revising export formalities so as to reduce substantially both the number of levies and the delays they cause. Such measures would cause little loss of fiscal revenue for the State and would considerably reduce fraud. The net fiscal effect could in fact turn out to be positive.

5.144 The Government has in fact started to set up a ‘one-stop shop’ at each main export site to combine and facilitate administrative formalities for the import and export of goods. At the end of 2009, 8 of the planned 32 ‘one-stop shops’ were operating; the remaining 24 should start during 2010. The creation of one-stop shops will not, however, completely do away with the harassment exporters face daily and made possible by the number of formalities required and by the existence of a multitude of all sorts of texts - decrees, orders and directives - taken at the national level but now also at the local level, some of them very old but never annulled. This cumulation of sometimes contradictory texts allows discretionary and abusive interpretation by the Government services involved. It is therefore important for the Government to undertake the following immediately: (i) an in-depth review in order to identify those services that are really necessary for effective control of exports/imports of agricultural products: who should be responsible, what would be a reasonable cost and corresponding fees, and (ii) on that basis, streamline, harmonize and clean up texts and formalities dealing with the import and export of agricultural products.

Sanitary and quality problems

5.145 Sanitary and quality problems are not yet critical for the DRC's agricultural exports, which are for the moment very modest and concern a highly limited number of products (coffee, tea, cocoa, rubber and cinchona). These are not subject to sanitary constraints and regulations but to market quality standards (price, grade) or environmental and social considerations, essentially governed by the private sector. Nevertheless, phytosanitary and animal health problems will become more critical in the medium term with the development and diversification of the country's agricultural exports, the increasing use of phytosanitary products by Congolese producers and more stringent controls by the DRC's client countries, not only in the international market but also in that of the region (increasing attention is already being paid to the problem of pesticide and ochratoxin residues in Arabica and tea). The DRC is a member of SADC (1994) and COMESA (1997) and is bound to respect these institutions' health regulations. Although there has been little progress at the regional level in this respect up until now, many countries that are potential clients for the DRC's agricultural products have started to tighten up their own controls and there can be no doubt that SADC and COMESA will do the same in the context of regional integration. Recent episodes of contaminated milk and avian flu have largely contributed to increasing concern regarding health matters hence the attention paid by Governments to public health issues.

5.146 At present, several entities are responsible for health and quality controls of exports and imports of agricultural and food products: MAPE, OCC and ONC, the Ministries of Trade, the Environment and Public Health. OCC is entrusted by the State with systematic control of the quality, quantity, conformity and price of all goods imported or exported. These services are in fact provided on behalf of the customs. To carry out this task, OCC has laboratories in the largest cities and at the main import and export sites. For certain agricultural exports (coffee, cocoa, tea and cinchona), OCC is supposed (although this is not always the case) to base itself on the quality analyses conducted by ONC (which issues the necessary authorization). OCC's services are financed through a 2 per cent commission levied on the value of a product (f.o.b. or c.i.f.), to which is added the cost of the laboratory analysis. It therefore has the resources needed to operate and in general it provides a satisfactory level of service. In the DRC, OCC is also responsible for everything concerning standards, metrology and accreditation. On behalf of the DRC it participates in the SQAM programme launched by SADC in 2000 with the aim of establishing a regional legal and regulatory framework for quality, focusing on accreditation, certification, standardization and metrology. The European Union has also prepared a regional legislative framework focusing on information and consumer protection in the SADC zone in order to protect the population from health and food safety risks.

5.147 OCC's activities essentially focus on commercial aspects (quality, conformity), but very little on the public health aspects. For a small number of so-called "sensitive" products, including some food products, OCC conducts physical and chemical and microbiological analyses, but the purely sanitary and public health aspects in relation to agriculture and food remain MAPE's responsibility. It is responsible[63] for defining and implementing the standards and regulations on food safety, phytosanitary and animal health protection, including the control of imports and exports of plant material, phytosanitary, veterinary or food products (a phytosanitary certificate is required for an import permit and a phytosanitary, fumigation or health certificate is needed for an export permit); approval and control of the distribution of phytosanitary and veterinary products; and the suppression of related fraud throughout the country. Because of a severe shortage of human and financial resources, MAPE is unable to fulfil its responsibilities. Public health aspects in relation to agriculture and food, which are nevertheless crucial to protecting the population, are at present quite inadequately covered and public services have the greatest difficulty in preventing or stemming the emergence of contagious plant or animal diseases (Rinderpest, bovine pleuropneumonia).

5.148 In future, the DRC will have to find the resources (i) to support growth in its agricultural exports as far as the sanitary and quality aspects are concerned as they are becoming increasingly important for access to regional and international markets; and (ii) to improve internal management of the public health, food, plant and animal health protection aspects. In a situation where there are significant financial and human constraints, it will be necessary to prioritize short and medium-term action rigorously and to define the respective responsibilities of the Government and the private sector. In accordance with its regulatory functions, the State should devote its limited resources to establishing a minimum legal and regulatory framework to allow the public health, food, phytosanitary and animal health aspects to be managed. The private sector must build its capacity to manage the commercial aspects (quality, certification) of trade in agricultural products: adoption of "good agricultural and agri-business practices", adoption of the HACCP approach, certification (ISO, EUROGAP).

[63] Decree, 18 November 2005 containing the phytosanitary regulations. A similar decree has been prepared for animal health/veterinary regulations but has not yet been enacted.

5.149 For these two tasks, the DRC must have the necessary capacity, especially as regards accredited and certification laboratories. It would therefore be advisable for the Government, in consultation with the private sector and civil society, to prepare an emergency programme not only for protection of the domestic market but also exports, including the following measures:

- Adopt a framework law on information, quality control and food safety to protect national consumers/users;
- Improve / update the national regulatory framework for quality control of foodstuffs (imported or produced locally) and imported or exported agricultural products and inputs. For this purpose, the implementing texts for the decree on phytosanitary regulations should be completed and the instruments for their effective implementation should come into effect; the decree containing animal health and veterinary regulations, still not in effect, should be enacted;
- harmonize the national regulatory framework with international rules and the conventions ratified by the Congo as well as that to be introduced by SADC and COMESA at the regional level;
- build the human and technical capacity of MAPE services (plant and animal health protection, inspection, quarantine, health monitoring, approval and suppression of fraud …);
- build the capacity of laboratories (OCC, private) with a view to their accreditation;
- introduce a structure (mixed public/private) to promote the quality of agricultural exports and to be responsible for informing actors in agricultural subsectors of the standards and regulations in force in the major export markets, train actors in the subsectors in the quality approach (HACCP) and support for enterprises with a view to upgrading and certification.

Organization of the agricultural environment

5.150 Trade associations mean any group of economic agents having common interests, grouped together and engaged in common activities in order to improve members' working conditions and income and socio-professional category. Trade associations are indispensable partners of the State in developing production sectors such as agriculture. Although it is exceedingly difficult to gain a precise idea of the current situation in the DRC in this regard, it would appear that there is only a very low level of trade organization in the agricultural sector. The grassroots associations have suffered greatly from the malfunctioning of State action for many years as far as support for groups is concerned. At the national level, the FEC represents large enterprises in the Congo and the major agricultural subsectors are represented in it (coffee, oil palms, rubber …), together with other sectors of activity (transport …). The FEC is highly active at the national level in representing the interests of the formal private sector *vis-à-vis* the State (taxation, business climate). It is also present in each province, where the effectiveness of its action varies according to the persons in charge, local interests and monopolies and the relations it establishes with local authorities.

5.151 Over the past two decades, farmers' groups and various forms of association of economic operators have become very important in the DRC. In some areas, these associations are the only bodies defending local interests in general or those of small-scale producers because of the lack of efficiency in Government structures. In agriculture, they are usually associations set up by local dignitaries, religious missions or international NGOs, which carry out activities in support of production (distribution of selected seeds, technical supervision), much more rarely support for marketing[64], often serving as a communication channel for development projects.[65] The number of such groups/associations varies considerably according to the province or sector. For example, they

[64] Producers and small market traders have no tradition of working together for this purpose and appear before the persons with whom they are dealing separately, in comparison with the rest of the subsector, in particular, carriers, dealers and the authorities.

[65] Many such structures have, however, been ad hoc creations set up with a view to attracting funds (the opportunity effect) without any long-term development vision.

are numerous in Kivu[66] (much less so in Bandundu or the Eastern Province), in the food crops and coffee subsectors (fewer in the rubber or tea subsectors). As a general rule, except in those cases where producers' associations receive support from projects or partners from the North, local associations receive no support from the State and have very meagre resources. It should also be noted that, in comparison with the total number of farmers in the country, only a marginal number belong to such associations.

5.152 This absence of organization in the world of farming constitutes a major constraint on the development and modernization of agriculture. This should be removed by strengthening grassroots trade associations (*organisations professionnelles agricoles de base* (OPA)) and by organizing the various actors in the same subsector in a representative trade group in which the various parties could exchange views in order to allow all categories of agents to carry out their activities efficiently and sustainably. In the short and medium terms, until family farms at the base have been organized into OPAs, large enterprises will have a crucial role to play in developing the Congolese agricultural sector, especially for industrial and export crops. For the time being, they are one of the Government's only contacts for the development of agricultural enterprises and any action aimed at lowering the costs that jeopardize the competitiveness of Congolese agriculture (taxation, transport, red tape) will benefit all farmers. They could thus play an important role in giving small-scale farmers access to markets and to selected plant material. In the longer term, OPAs should play a major role in organizing farmers so as to allow members access to the services and inputs they need, make them partners in supplying agri-businesses and to act as a relay for access to financing systems. Strengthening OPAs should therefore be actively pursued, particularly through support for training and advice on management and organization.

5.153 Because of the diversity of the Congolese agricultural environment (production systems, human settlements) and the scarce resources available to the Government, it will be necessary to start organizing the rural environment in suitable areas and on the basis of favourable factors: high population density, promising subsectors that already have some associations of producers and/or enterprises that could play a catalytic role and are ready to intensify consultation and collaboration with other actors in the subsector, moving gradually towards a real "trade organization" that would become the State's point of contact, the body where the subsector' s common assets would be jointly and consensually managed and the preferred forum for discussing and resolving problems that arise in connection with the political, institutional or regulatory environment defined by the State. In short, the preferred tool for starting to organize priority branches/subsectors and for participatory preparation in the development strategy for the subsectors concerned, and its implementation through specific projects that provide the strong support and financing needed in the medium term.

5.154 It is in fact obvious that, because of their current low level of production, all the industrial and export subsectors cannot immediately themselves fund the services for which trade associations are

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[66] According to some sources, almost 5,000 formal and informal associations are active in North Kivu. The three largest are *Action pour le Développement Intégré du Kivu* (ADI Kivu) (Action for the Integrated Development of Kivu) in the Arabica coffee subsector, which receives financial support from two international NGOs: ICCO Holland and the *Comité Catholique pour la Faim et le Développement* (France) (Catholic Committee for Hunger and Development); the *Syndicat de Défense des Intérêts Paysans* (SYDIP) (Union for the Defence of Farmers' Interests), mainly active in the cinchona subsector, but also in the coffee subsector, where it is supporting the revival of Robusta and Arabica in North Kivu by providing technical and marketing support to all coffee growers in the zone where it is active; and *Appui à la Communication Interculturelle et à l'Autopromotion Rurale* (ACIAR) (Support for Intercultural Communication and Rural Self-Promotion), which is implementing a project to revive the coffee subsector in Kivu and Ituri, with the main objective of organizing farmers' associations around practical coffee production and marketing activities. The organization of farmers' associations led to the creation of the *Fédération des Producteurs de Café Arabica de l'Ituri* (Federation of Arabica Coffee Growers in Ituri) in 2005 (according to ACIAR, 32 unions have been set up, bringing together some 15,000 growers, including 2,000 young people, 350 of whom have been demobilized).

usually responsible (support for their members, contribution to financing applied research programmes undertaken at their request, production of plant material …). These services will temporarily have to be supported by the State. During this transitional period, State support and subsidies will have to be given in such a way that they do not hinder the emergence of private operators and their associations. The State should therefore gradually complete its refocusing on its regulatory public service role and totally withdraw from operational management of the subsector, but at the same time ensure: (i) the balance among various types of operator in the subsector (large enterprises and small family farms); (ii) the definition of the broad outlines of the country's agricultural policy; (iii) compliance by the various partners with the regulations in force; (iv) endorsement and observance of the agreements among partners in the various subsectors; and (v) (financial) support for action to develop the subsector.

Public Expenditures in the Agricultrual Sector

5.155 **Insufficient and ineffective public expenditures.** It is very difficult to evaluate the amount of resouces allocated to the agriculture sector in DRC. Financing for the sector is provided by not only the Ministry of Agricutlure, Livestock and Fisheries, but also by the Ministries of Rural Development, of Environment, of Scientific Research (INERA) and a nubmer of other sizeable institutions[67]. The decentralization process that has been in progress since 2008, implying a transfer of budgetary resources to the provinces, introduced an added compelxity. Nevetheless, some assessment can be made of the situation.

- Despite agriculture having been declared a “priority of priorties” by the Government, and despite the DRC’s adherence to the recommendation from the Maputo Summit that fixed a target of 10% for national budget financing for agriculture, the Government has not yet allocated significant resources to the sector. As shown in the table below, agricultural spending has not surpassed 2.5% of the goverment’s total budget since 2002. This, considering that agriculture has grown to represent nearly 50% of the country’s GDP.

Table 17: Agricultural spending as part of National Budget

(Congolese Francs, Millions)

Year	**2002**	**2003**	**2004**	**2005**	**2006**	**2007**
Total Agriculture Spending	1 478	8 056	5 899	10 760	16 423	14 660
Total Government Spending	183 729	322 358	449 579	737 653	1 018 429	870 070
Agriculture as % of total	**0.8**	**2.5**	**1.3**	**1.5**	**1.6**	**1.7**

Note: Data from the respective budget laws and budget monitoring statements as available or from the final budget execution laws

- The real disbursements in the sector were consistently lower than committed amounts (7.2 million CF disbursed, as compared to 16.8 million CF committed in 2007, a 43% payment on commitment.
- Salaries and wages represent more than 85% of the total commitments indicated. The remaining 15% is divided between non-salary operational spending and investment. This indicates that (i) public expenditures have for decades contributed neither to growth of productive capacity of the sector nor to it’s upkeep; and (ii) effectiveness of ministerial services is practically zero, because personnel has no means to develop, invest in, and manage the programmes for which it is responsible.

5.156 Budgetary decentralization, as initiated in2008, implies transfer of 40% of national revenues to the provinces. [68] This transfer concerns an overall sum that would be tranferred to the provincial authorities, according to local priorities. While it was originally thought that budgetary decisions at

[67] Such as the services of the Office of the President, in particular the National Service (*Service Nationale*)
[68]Article 175 of the Constitution

the provincial level, being closer to local realities, would be more favorable for the agricultural sector, analysis of provincial budgets has since shown that initial decisions at the provincial level have not, overall, been favorable for the sector.

5.157 **Importance of external resources and project-based financing.** It should be noted that project-based financing from international development partners supplement the very modest national budget allocations made for agriculture. International funding has over recent years often exceeded funding from the central Government.

Table 18: External financing for the Agriculture Sector 2006-2008 (Millions, USD)

2006		2007		2008		Total 2006-08	
Budgeted	Disbursed	Budgeted	Disbursed	Budgeted	Disbursed	Budgeted	Disbursed
101.7	10.3	50.6	46.7	110.3	82.5	262.6	139.6

Source: PGAI web, Ministry of Planning

5.158 Funds from international partners have probably had a more significant inpace on the agriculture sector than national resources, due to sharper targeting, better partnership with provincial and local institutions, and more efficient and transparent use. In the short and medium term, it seems that the strategic use of specific project financing, accompanied by fiduciary guarantees and close monitoring, may be the most effective way of developing the sector.

Table 19: Impact of public spending on agricultural growth

Impact of public spending on agricultural growth	
Sector	Elasticities
Agriculture	0.15-0.30
Rural Roads	0.07-0.10
Education	0.12-0.15
Health	0.16-0.20
Source: Based on Fan, Zhang and Rao (2004) and other studies, IFPRI.	

5.159 **Importance of public spending for the development of the sector.** Public expenditures in agriculture must increase dramatically to allow the Government to reach its growth and poverty reduction objectives. Studies carried out in various countries (India, Indonesia, China, Thailand, Ethiopia, Ghana, Uganda, Zambia, Rwanda) have shown the important role played by public spending in the agricultural sector, as well as in other development-critical sectors such as transportation infrastructure. The table above shows estimations of elasticity for agricultural production to changes in public spending in the sector, and to certain types of non-agricultural public spending[69]. It shows that on average, growth by 10% of public spending in the agricultural sector implies a growth of about 2% in agricultural production per person. In the majority of developing countries, public spending in transport infrastructure (in particular rural roads) and the development and diffusion of new technologies have the most significant impact both on agricultural growth and on poverty recution[70]. As discussed above, annual agricultural growth of at least 7% per year (4% per

[69]Growth as % of agricultural prodution per person, resulting from 1% of increase in overall public spending, for example, doubling public expenditures (100% growth) in agriculture would lead to 15 to 30 % of overall growth per person.

[70]Public spending on research and development has the most significant impact on productivity in the agricultural sector. In India, for example, every dollar invested in R&D generated more than 13 USD of added value. The next most promising area for investment is rural roates (with a return on investment of 5 to 1). In Rwanda, ROI is 12/1 for R&D, 7/1 for rural roads. Public spending on secondary and rural roads has the largest impact on poverty reduction. In India, for each dollar invested in rural roads, 124 people were lifted above the

person) would be necessary to reduce the incidence of poverty by half (Millenium Developemnt Goal 1) over a period of 15 years. Given that it is difficult to determine the level of agricultural public spending necessary to reach this goal, the minimum objective of the Government should be to reach 10% of public expenditures allocated to agriculture, as committed by African Governments in Maputo under the NEPAD framework.[71]

5.160 **Need to improve targeting** of **public spending.** The studies carried out by "IFPRI" show also that while it is necessary to increase agricultural spending, it is also necessary to ensure that they are used as effectively as possible. This requires improvements in (i) targeting of spending to programs with high impact and (ii) efficient implementation of programs.

- ***Prioritize investment.*** Impact on increases in investment spending is much more significant than the impact of increases in recurrent, programmatic spending.[72] This implies that paying salaries and recurrent expenses in the public sector has only a very weak impact on agricultural growth.
- ***Targeting spending according to growth potential and potential impact on vulnerable groups.*** Impact of public spending on growth depends also on (i) agricultural potential of the region in question, (ii) the importance of the sub-sector as part of overall GDP and (iii) growth potential of each invidual sub-sector. The impact on growth will depend also on the immediate impact investment has on vulnerable groups: i.e. disadvantaged regions and subsistence/food crop farming. In DRC, an overwhelming majority of the rural population is extremely poor, regardless of region, and public spending should, over the course of the coming years, target: (i) high potential zones, which can offer rapid production-based results, (ii) activities that have as-wide-as-possible effects on the overall population (rural roads, Research & Development on subsistence crops) and (iii) crops with high potential for development. In the long term, targeted sectoral approaches should be complemented by zone-based approaches and those that favor disadvantaged producers.[73]

poverty line, while investment in R&D lifted 86 people above the poverty line for each dollar invested. In China and in Rwanda, we see similar impact of each R&D and rural road investment: 136 and 126 people per dollar invested in China, and 58 and 34 for Rwanda.

[71] Studies of "IFPRI" for such countries as Togo, Uganda, Rwanda, Zambi and Ghana – countries that commit a more significant portion of their budgetary resources to the agricultural sector than does DRC – underline the significant effort that must be made by most African countries, including the DRC, to reinvigorate growth in the agriculture sector. These studies show that public spending in agriculture should increase annually toward an eventual goal of 20-30%. See Fan et al, IFPRI 2008, and "Agricultural Growth and Investment Options for Poverty Reduction in Uganda, IFPRI September 2008"

[72] Increase by 10% of investment spending implies growth in agricultural spending of 6%, whereas the impact of an equivalent increase in functional spending is only 0.2%.

[73] The impact of public spending in agriculture also varries considerably as a function of other factors, in particular (i) density of agricultural production (economies of scale), (ii) the initial stock of human (in both quality and quantity), financial and social capital, and (iii) local institutions such as those in charge of land management policies.

Box 13: Impact of public expenditures: targeting growth areas in Zambia

Studies conducted for Zambia, for example, indicate that public expenditures on major food crops (cereals and tubers) are the most effective way of reducing poverty (a 1% increase of the added value in the sub-sectors results in a 0.33 % reduction of poverty for the tubers, 0.28 % reduction for cereals , 0.25 % for industrial crops and 0.18 % for livestock). However, the importance of tubers can largely be illusory since the sub-sector's small share in the overall Agricultural Gross Domestic Product tremendously reduces its potential impact. On the contrary, the dominant position of corn, combined with its substantial potential impact on poverty turns it into a priority sub-sector, although with moderate growth potential. Finally, while the impact of the industrial/export crops on the Agricultural Gross Domestic Product is weak, their growth potential is high and their global potential impact on poverty reduction is significant. These studies on Zambia are given as illustrations. They should be conducted in a detailed way for the Democratic Republic of Congo where the conclusions could be different in most provinces due to the major role of tubers (cassava) in this country, with the exception of Katanga, where corn is the dominant crop.

- **Improve program implementation.** Finally, whatever the level of public expenditure in the agricultural sector and the quality of the targeting approach, their impact largely depends on an efficient implementation process. This particularly entails: (i) thoroughly reforming the budgetary implementation process to improve the fiduciary aspects; (ii) Formulating and implementing development programs based on a decentralized and participatory approach to not only improve their relevance but also ownership and follow-up in the field. The use of contract instruments and public-private partnerships also helps improve the competence of the institutions responsible for program implementation.

Restructuring the Ministry of Agriculture, Livestock and Fisheries and the Ministry of Rural Development[74]

5.161 Since 2003, the Government has initiated [75] a debate on the restructuring of the institutions in charge of the agricultural sector that are considered as an impediment to the sector recovery, since they monopolize for their own benefit the few resources allocated to the sector. It is therefore expedient to reform these institutions in order to bring them in line with the Government's national development vision and strategy. This entails (i) clarifying and rationalizing State intervention in the sector; and (ii) clarifying the roles and responsibilities of the central departments (including deconcentrated units) and the decentralized institutions; and (iii) re-sizing each link of the new architecture to give it adequate resources to efficiently fulfill its missions.

Current situation

5.162 The debate initiated by the Government has revealed serious institutional dysfunctions relating to (i) the low organizational, human, material, and financial capacities of the Ministry of Agriculture, Livestock and Fisheries (MAPE), the leading institution in the sector, and (ii) the existence of several ministries involved in the agricultural sector management (including the Ministry of Rural Development), resulting in attribution conflicts and the dissipation of resources and efforts. In addition, since 2006 there has been a lack of coherence between the current organization of MAPE and the country's new institutional architecture set forth in the Constitution of February 18 establishing decentralization as the country's form of political and administrative organization.

[74] Based on : «La décentralisation dans le secteur de l'agriculture » (Decentralization of the agricultural sector) ; Evariste Niyonkuru and Patrick Makala, June 2008

[75] With the support of the WFO and the Belgian Cooperation

A hardly legible and inefficient institutional structure

5.163 Several structures intervene in the rural world: MAPE, the Ministry of Rural Development (MDR), the Ministry of Health, the Ministry of Environment, as well as some department of the Presidency. Particularly harmful is the periodic re-creation of a Ministry of Rural Development [76] (mainly a department of the Ministry of Agriculture), which results in a breaking down of certain functions, substantial additional costs and a deterioration of State action effectiveness by creating many conflicts over competences[77]. For instance:

- MAPE is responsible for training agricultural associations while MDR is in charge of the organization and the training of cooperatives to increase production (including of agricultural produce) ;
- MAPE is in charge of the promotion of fishery products while MDR promotes and supports fisheries in rural areas ;
- MAPE is responsible for the development, implementation, monitoring and evaluation of agricultural development programs and projects while MDR is in charge of development projects in the country, the rural and peri-urban areas.

5.164 Many attribution conflicts between the various ministries arise from taxes collected from economic operators that often offer no real service in return: animal and plant quarantine taxes (MAPE and the Ministry of Health) ; sales taxes and license to purchase agricultural produce (MAPE and MDR) ; taxes on game and fish (MAPE and Ministry of Environment). The sector's institutional structure should be completely reformed, clarified and rationalized to improve the transparency and efficiency of State action and alleviate the tax burden on economic operators...

An inefficient Ministry of Agriculture and Fisheries (MAPE)

5.165 Since independence, MAPE has been the cornerstone of the agricultural sector management. For many years, however, its interventions have largely been hampered not only by the prolonged crisis that the country has experienced and a severe lack of resources but also by serious internal dysfunctions.

Table 20: National Agricultural Services

National Departments
National Statistics Department (SNSA)
National Extension Service (SNV)
National Fisheries Promotion and Development Department (SNADEP)
National Seeds Department (SENASEM)
National Fertilizers and Related Inputs Department (SENAFIC)
National Aquaculture Department (SENAQUA)
National Rice Program (PNR)
National Agricultural Motorization Department (SENAMA)
National Veterinary and Livestock Inputs Department (SENIVEL)
National Agricultural Centers Coordination

5.166 **Ineffective internal organization.** MAPE comprises (i) eight central directorates, (ii) ten national departments, (iii) 11 provincial inspections; (iv) sixty agricultural centers, (v) numerous projects and programs and (vi) three companies under its supervision. The coexistence of central directions and national departments (the latter are often old projects that no longer have funds and whose approaches and activities do not always comply with the general missions of the Ministry) resulted in harmful conflicts of attributions and waste of resources. The mission of provincial

[76] This was suppressed in 2007 and reinstated in 2009.

[77] The Ministry of Agriculture and Ministry of Environment have conflicts related the development of the territory; Collection of taxes on fishing permits, and non woody forest products….

inspections[78] is to participate in the formulation of agricultural policies and strategies and regulate agricultural activities in the field. In principle, they are extensions of the central directorates. However, in reality, provincial inspections are almost autonomous since they receive little incentive and technical and administrative training from the central directorates.

5.167 **Inadequate and unskilled staffing.** MAPE, like most Congolese administrations, has no idea about the exact number or qualifications of its staff. The latter is characterized by both a plethoric number of non-qualified personnel, many of whom are underemployed, and the shortage of competent executives for managerial positions. This situation is further worsened by (i) issues relating mainly to the lack of precision in organization charts; unclear determination of the responsibilities and competences required and selection criteria (thus frequently resulting in the posting to high level positions of agents recruited regardless of their qualifications or their ability to manage; and (ii) the persistence of fictive jobs and the existence of an inappropriate and ill-controlled payment system.

5.168 Based on available information, which needs to be updated, the Ministry of Agriculture had around 18,800 agents in 2003 whereas in the organic framework the staff was supposed to consist of 10,000 agents[79] at the most. The staff is characterized by:

(i) The great number (almost 65%) of agents over 55 who should have retired[80] ;

(ii) The existence of two distinct groups of employees: " *Under- Status"* agents (55% of the total number of employees) who are registered civil servants; and the « *New Units*» (45%) made of agents recruited in an opportunistic manner, particularly at the provincial level, but who are not registered and therefore difficult to control;

(iii) The excessive number of administrative staff (about 45%) compared to professionals in the agricultural sector (55%), and the low proportion of senior executives (5%)—while the number of middle executives represented 23%, supporting technical staff 27%--the largest part of the employees (45%) being support staff; and

(iv) An unequal distribution between the structures depending on the central administration (20% of the total number of the Ministry's staff) and the national departments, agricultural centers, projects and programs (80%) whose agents are difficult to track.

5.169 In addition, the low salary level prompts many civil servants to seek external additional income-generating activities, translating into frequent cases of absenteeism and personal use of official working resources. Lastly, the general shortage of working resources prevents agents from properly undertaking their duties. Provincial inspections, in particular, operate in conditions not suitable to the geographical dimension and the agro-ecologic diversity of the territories entrusted to them.

5.170 **An ambiguous situation between deconcentration and decentralization.** The Constitution of DRC adopted in 2006 has paved the way to a profound institutional reform in all national public areas by distributing competences between the central power and the provincial and local structures. In the agricultural sector, the mission of the central power through the Ministry of Agriculture, Livestock, and Fisheries, is now limited to a leadership, regulation and coordination role while the operational activities fall within the remit of the decentralized structures. This role distribution must translate into a reorganization of the institutional architecture in the agricultural sector, centered on

[78] The provincial inspections supervise 25 district inspections, 145 territory inspections, including 737 sectors and 5,420 groupings.

[79] TCP/FAO/DRC/2904 project: diagnostic report 2003.

[80] According to Article 73 of Law no. 81-003 of July 17th 1981 defining the status of career personnel of the state's public services, two conditions must be met before an agent can retire: (i) he/she must be 55 years old and (ii) he/she must have worked for 30 years.

clear and well-defined strategic orientations as part of a priority measure program and a work schedule.

5.171 The constitution of February 18, 2006 provides for substantial transfer of competences to the provinces: the role of the central power is limited to legislation, regulation, and coordination functions, while the provinces are responsible for operational activities (development and implementation of provincial agricultural programs; organization and supervision of agricultural campaigns etc….) to better define local priorities and implement specific development programs. The decentralization process was particularly initiated in the agricultural sector, since it is considered as the engine of economic development. The provincial Governments established after the 2006 elections include all the ministries in charge of agriculture (generally regrouping MAPE and MDR in one ministry) which, in principle, are the only organs responsible for the operational aspects of agricultural development in their provinces. However, the effective exercise of the attributions devolved to them by the provincial ministries is closely linked to their operational and administrative capacity to establish -in collaboration with the sector's actors- and implement/coordinate regional programs. This capacity is yet to be built.

5.172 In fact, it seems that the creation of these departmental ministries was not carefully prepared and, four years after the establishment of these provincial ministries of agriculture, it is difficult to implement the new institutional architecture (with the exception of the Agricultural and Rural Management Councils (CARG, see below). The efficiency of the sector's public institutions, the MAPE deconcentrated services and provincial ministries, is significantly reduced (beyond the lack of financial and material resources) by a series of legal and administrative constraints.

- There is still no Organic Law on decentralization which defines the scope and the way to carry out the devolved competences ;
- The law defining the general status of the National Civil Service has not been updated, thus making it impossible to define and clarify the relations between the provincial executive organs and the deconcentrated departments of the central power ; and
- There is no law on the provincial civil service, which slows down the transfer of staff from the deconcentrated departments to the provincial executive organs;

5.173 For this reason, (i) the decentralized structures does not have adequate staff to run the administrations; and (ii) the deconcentrated departments are still held back, waiting for the clarification of their relationship with the provincial executive organs.[81] Finally, the provincial Governments and ministries still lack staff or legal instruments to regularly ensure a transparent management of the sector's budgets.[82] It is therefore essential to quickly adopt the required measures to complete the decentralization process, by clarifying the respective roles of MAPE and the provincial ministries, and to provide the provincial ministries with the necessary means: financial and organizational resources (in particular budget preparation and implementation procedures) ; and human resources (by selecting and redeploying the employees of the deconcentrated departments

[81] Cohabitation between the deconcentrated departments' executives and agents and the provincial ministers has been established in the field, but it lacks a legal basis and its nature—consensual or conflicting—largely depends on the quality of human relationship that can be established at the local level between the provincial Ministry of Agriculture and the MAPE provincial inspector.

[82] It seems in fact that : (i) there is a strong centralization of budgetary credits exclusively in the hands of the provincial governors who de facto simultaneously play the role of authorizing officer and accountant of public resources, two incompatible positions that should be immediately separated ; and (ii)the allocation of available resources largely depends on the governors' sole decision, and the provincial sector ministries often have to do without budgets to implement their sector programs.

and/or by recruiting in the local public civil service and implementing a vast training program on the formulation of regional programs and budget management [83]).

Institutional Restructuring of the Sector

5.174 **Rationalization of State action in the agricultural** sector**.** The sector's recovery strategy adopted by agricultural actors during a workshop held in 2006 set out in the Agricultural Policy Paper (April 2009) and the Agricultural Code recently adopted by the Government. It rests on four pillars that should guide the sector's institutional reform:

(i) Refocus MAPE on its public service activities—development, guidance, analysis, and forecast duties ; and a legislative and regulatory control role—and its disengagement from industrial and commercial activities (including the production and sale of seeds, fertilizers and veterinary inputs, the provision of veterinary care, mechanization activities, processing activities, etc…)—and the creation of a framework conducive to a competitive private sector dealing with industrial and commercial activities;
(ii) Transfer of responsibilities in designing and implementing development programs to provinces to better reflect the specificities and priorities of each of them;
(iii) Promote partnerships between the Government and non-state actors mainly by promoting and reinforcing agricultural professional organizations and by creating, at the operational level (in provinces and districts) a consultation framework for the State, the private sector and producer organizations —the Agricultural and Rural Management Councils (CARG)—to help participate in the definition and coordination of agricultural development programs and projects.

Box 14: The Agricultural and Rural Management Council

The Agricultural and Rural Management Council (CARG) is a major component in the Government's new agricultural policy and the sector's institutional restructuration. It is a forum for dialogue between the public and private actors of the agricultural world (private enterprises, Farmers' Associations, Ministries, Civil Society…) to be set up in the main territorial entities—districts, territories…--and whose mission would be to (i) make recommendations on the priorities in agricultural development, particularly help formulate provincial development strategies and programs ; (ii) ensure transparency in the allocation of available resources and serve as a forum of discussion to efficiently fight administrative harassment; (iii) disseminate useful information in the rural environment: legal and regulatory texts (particularly provisions of the Agricultural Code and Taxation), market opportunities, technologies …(iv promote the organization of the rural world and to coordinate producers access to advice and other agricultural services ; (v) participate in the land securing activities through the use of local land charters. Currently, 120 territorial operational CARGs have been created with the support of provincial coordinators. The creation of CARGs in the decentralized territorial entities is underway throughout the DRC. Regular follow-up of the process in the field will help assess its internal dynamics and its difficulties to better move forward.

5.175 The reform and refocusing of State mission in the agricultural sector must translate into a rationalization of its interventions to avoid conflicts of attributions and clearly identify the decisions and responsibility centers while eliminating the additional costs resulting from redundant staff (see above). To succeed, the rationalization process should entail:

- The merging of MDR and MAPE to form a single ministry responsible for managing all the agricultural aspects of rural development ; and
- The clarification of the competences of the other relevant ministries (Environment, Scientific Research…) in an agricultural framework-Act that provides an overall vision of agricultural development, sets out the orientations, defines the general and specific objectives, determines

[83] A training program for the MAPE and provincial agriculture ministries 'staff (if any) on how to formulate and budget for development programs has been launched as part of the mid-term expenditure framework.

and clarifies the role and intervention fields of the actors (State and others) in the agricultural sector's development.

- The introduction of the necessary tools to make the Government's decentralization strategy operational including : (i) the adoption of an organic law on decentralization to specify the scope and exercise of the devolved competences ; (ii) the adoption of a law regulating provincial civil service ; and (iii) the updating of the law defining the general status of the National Civil Service in order to determine and clarify the relations between the provincial executive organs and the central power's deconcentrated departments.

5.176 **Restructuring the Ministry of Agriculture.** The outlines of the MAPE restructuring process have already been set out and adopted. A detailed organic framework was prepared, including for the deconcentrated structures, which (i) defines the organization chart of the ministry, the number of positions at the different levels required to fulfill the kingly missions at the central and deconcentrated level, and the profiles of these various positions.[84] However the MAPE restructuring process has not yet started since some requirements are still to be met (in addition to the adoption of instruments necessary to operationalize the decentralization process, as mentioned above). The major requirements include:

- The adoption of effective measures to control new recruitments by the structures involved ;
- The preparation of a precise organic framework for the provincial agriculture ministries that will be vested with the operational responsibility of agricultural development and where part of MAPE's (and MDR's) staff will be transferred ; and
- The updating of MAPE's (and MDR's) staff database, including dividing them into categories[85] and the implementation of a plan to recruit (internal or external) staff of the new MAPE and of the provincial ministries, and redeploy the existing employees.

5.177 These activities should be successfully conducted as soon as possible to allow efficient implementation of the Government's agricultural development policy. Funds for the redeployment of the MAPE's staff have already been obtained from the World Bank. It is however equally important to note that it would be inefficient and potentially dangerous to undertake the MAPE's redeployment/social plan (i) without associating it to the structuring/restructuring of provincial ministries and MDR; and (ii) the measures required to control recruitments in the various structures, particularly at the provincial level.

5.178 **Creation and reinforcement of the decentralized structures.** As mentioned above, the provincial ministries still suffer from a great lack of personnel and inadequate budget resources, which prevents them from operating smoothly. To build their planning and programming capacity, most of the provincial ministries have already started working on -in collaboration with MAPE decentralized services- the preparation of a provincial agricultural development strategy and program as part of the Mid-Term Expenditure Framework (MTEF). Provinces have also started setting up CARGs. This instrument could be effective in improving the relevance of State action in the sector, mobilizing private resources as part of operational partnerships and improving governance in the sector. There is still the issue of the sustainability of CARGs that cannot operate solely on a voluntary basis and if their recommendations are not taken into account. It is therefore imperative to give them not only an advisory role, but also operational responsibilities and to refinance the cost of their activities/operation. One possible operational duty could be the management/supervision of the provincial agricultural development fund that the new code plans to create to support productive private investments.

[84] The new organic framework does not take into account the activities of MDR. For this reason, it is desirable to update it.
[85] As mentioned above, the staff census dates back to 2003. Considering the new organic framework of the ministry, it is also necessary to classify the staff: retired employees, employees to be retained at MAPE or to be transferred to provinces, etc…

5.3 FOREST SECTOR

5.3.1 Domestic supply

Regulatory framework

5.179 The Forest Code: Reform of the Congolese forest sector commenced in 2001, with particular support from the World Bank, engaged in reforming regimes for managing natural resources. The basis for this reform was, *inter alia*, the preparation of a Forest Code. Consequently, the legal regime governing the organization of forests and their exploitation (forest regime) is now based on Law No. 011/2002 of 29 August 2002, the Forest Code.

5.180 This Code classifies forests into three categories (listed, protected and for permanent exploitation), each responding to a priority role: the conservation of biodiversity, socio-economic development of local communities, and sustainable production of timber or other forest goods or services. With the exception of listed forests, for which an objective of 15 per cent of the national territory has been fixed, the Code does not provide for any allocation of forests between these categories (see table in Annex 1).

5.181 **Listed forests.** Their function is to conserve biodiversity and this is achieved by making them the public property of the State pursuant to an act that limits rights of use to strictly meeting the domestic needs of the persons customarily entitled. The State is responsible for managing them through the ICCN, a Government body under the supervision of the Ministry of the Environment. The State may delegate their management to legal persons under public law or to associations recognized as being of public benefit.

5.182 **Protected forests.** Their socio-economic development role is covered in the definition given in the Code: these are forests belonging to the local community, which owns them in accordance with tradition. They may be used for other purposes (thereby becoming an agricultural reserve area) by local communities, which may freely exploit the resources (under an agreement with small-scale farmers) or at their own request a community concession may be given (direct collective management or delegation of management).

5.183 **Forests for permanent exploitation.** Their role is the sustainable production of timber or other forest goods or services, as shown by their removal from the protected forests category (local community forests) following a public enquiry that must declare them free of any rights in order to be put on the market under a concession (signature of a concession agreement with a private or public operator for a limited renewable term of 25 years).

5.184 The DRC's Forest Code is the most extensive in the subregion in terms of the possible uses it allows under forest concessions: in addition to exploiting timber, it provides that forests can be used for tourism and hunting, conservation, and bioprospection. While the Code reaffirms the principle of State ownership of forests (as exists in the case of land tenure or mining), local populations have rights over the largest area under customary rights recognized by Congolese law. In fact, protected forests are a category by default.

5.185 The work done to prepare the implementing texts for the Forest Code has not been turned into administrative practice, which remains dictated by the requirements of the former forest regime. None of the national stakeholders really apprehends the Forest Code and its implementing texts and this is for several reasons, including the difficulty of circumscribing the body of legal texts applicable to the sector. There is no compilation of official texts and the texts in circulation differ as to the status to be accorded to certain texts, there is a limited number of national legal experts on environmental and forest issues, little publicity has been given to the texts, and discretionary practices persist in the administration, together with the habit of perpetuating what should be provisional.

Actors in the sector

5.186 **The State.** Pursuant to Article 7 of the Forest Code, forests are owned by the State. This principle was reaffirmed in the 1973 law on land tenure and in the 2006 Constitution. This ownership claim was the basis on which the Government justified the discretionary granting of land deeds and forestry permits and is today the basis for the Government's wish to have a monopoly of access to payment for environmental services, which it sees as a new form of revenue. Nevertheless, the State's ownership is only really established by law for the public forest domain. It is in fact following their classification that protected areas fell into this domain. As there is no basis in the law for the private domain through legal acts, the State can only put forward a presumption of State ownership. This is why it wants to expand the listed domain and is hesitating about the limits to be placed on community concessions because they would give local communities a certain form of ownership rights under which they could claim access to the payments.

5.187 **The forest authority** has long been deemed ineffective. The revenue from the FRCF served less to finance its management and reforestation tasks than to pay bonuses to officials in charge of managing forests and to finance their missions and travel. Since the funds were suppressed in 2005 by Law No. 05/2007 of 31 March 2005, the DGRAD has been responsible for collecting taxes on behalf of the FRCF. The centralization of payments by the DGRAD, however, has not been accompanied by the full and rapid transfer of the shares to which the FRCF has the right. The delays in adopting the regulatory texts required to implement the Code and the continued disparity between the rules and practice during the transitional Government highlight the authority's resistance to any renunciation of its discretionary practices. The Ministry now has a degree of credibility among its international partners, however, a contrast with the period of the transition. This is the case, for example, for the Minister in office since November 2007, under whose impetus it was possible to complete the conversion process and who has revived the process of drawing up implementing texts for the Code. Participation by some of the Ministry's collaborators in recent years, particularly as national focal points for the various conventions (especially climate), also helps to give visibility to the Ministry's action at the regional (within the COMIFAC framework) and international levels.

5.188 **The decentralized entities**, which want to deprive Kinshasa of the income from natural resources, as can be seen from 2007 onwards in the provinces' mobilization to obtain direct payment into their accounts of the surface rent due to them according to the Forest Code. These claims, put forward by members of Parliament, influenced the drafting of the law on the independent administration of the provinces, which makes surface rent their own resource. While the Forest Code, to a certain extent, anticipated decentralization through retrocession, the fact that it precedes the Constitution gives a glimpse of the conflicts of competence, opening up the path to arbitrary decisions. The Forest Code, for example, gives the ETD the possibility of directly managing forests in the State's private domain (permanent exploitation forests). Although the experience has not been attempted, this could be a way of generating own resources, particularly at the sector level.

5.189 **Forest concessionaires.** Their right of access to forest resources is based on a contract. Some have raised the possibility of contesting the annulments following the legal review on the basis of the 2002 Investment Code. In the DRC, however, industrial operators are subject to considerable political, economic and legal insecurity, so the sector's reform is based on the wager that lessening such insecurity will lead to more virtuous conduct. The certification envisaged in the reform should give them important leverage inasmuch as 70 per cent of their exports go to the European market.

The role of the FIB must also be underlined; it is a trade association grouping the major operators, the result of a split in the FEC, the principal employers' union, which the FIB reproached with being too close to the Government.

5.190 Forestry in DRC is an oligopolistic sector. Following the legal review (and before consideration of administrative appeals), 18 operators, holding 65 concessions, divided up the sector. Five of them (CFT, FORABOLA, SIFORCO, SODEFOR and SOFORMA) hold 43 deeds, corresponding to almost three quarters of the actual areas conceded (9.2 million ha. out of the 12.6 million convertible). These five actors, which dominate the sector, all have foreign capital: SIFORCO is a subsidiary of the Danzer group (German capital); the four others are subsidiaries of the Nord Sud Timber group (Swiss capital, managed by a Portuguese family). The presence of Congolese actors among the operators working in the formal sector has become negligible: with nine convertible deeds covering 1.2 million ha (less than 10 per cent of the areas conceded), they are the principal victims of the legal review.

5.191 **Small-scale operators.** Unlike the formal sector, the small-scale sector has a large number of actors, but they are badly organized and thus have little institutional visibility. This situation can be explained, first of all, by the very small size of the majority of the units, many of them comprising a single operator working within a limited area. This is not true for the downstream subsector, i.e. timber processors (small-scale joinery workshops), which are organized in order to defend their interests. The timber industry is the domestic market's main source of supply for structural timber, whose principal outlet is joinery workshops in urban centres. The industry is organized by timber merchants, and sometimes by concessionaires who subcontract felling operations. With no control and little organization, it is difficult to estimate either the volume or the value of the small-scale sector's production, although estimates made in 2003 (Djiré) indicate production that is five to eight times that of the formal sector. The fuelwood industry (firewood and charcoal) covers almost 80 per cent of domestic energy requirements. The income derived serves the local conflict economy: the various opposing parties (FDLR, FARDC, CNDP) appear to claim their share. In Kisangani, local industry (textiles, soap) also uses fuelwood, as do small brickworks.

5.192 **Local communities.** Their right of access to forest resources is based on a common law situation recognized by Congolese law. They tend to consider themselves the true owners of the forests and their resources by virtue of ancestral rights. From the legal point of view, there is nevertheless ambiguity between the affirmation, on the one hand, of public ownership (the State owns the soil and its resources according to the spirit of the Bakajika law) and, on the other, recognition of customary rights of use. This ambiguity makes it difficult to securitize local populations' access to resources. It is estimated that 40 million people in the Congolese population are highly dependent on forests, from which they derive most of their proteins, medicines, energy, materials and income. The Bantu population, engaged in shifting slash and burn cultivation, also depend on the forest to renew the soil's fertility.

5.193 The pygmy indigenous population (estimated to be 600,000), whose economy is still based on hunting and gathering, are totally dependent on the forest. If they settle down, they become even more dependent on traditional farmers for access to land. Their precarious situation is particularly important because their social capital is low. The survey carried out for the purpose of drawing up the national strategy for pygmies shows, however, that communities in the process of settling down tend to adopt representative institutions on the model of Bantu chiefs, although traditionally they did not have much of a hierarchical structure. Under pressure from NGOS, they have been involved in the process of reforming the sector. Consequently, the mention of indigenous peoples does not appear in the Code itself but in the 2008 implementing decrees. They have received special attention from the World Bank since the Inspection Panel determined that the Bank had not respected its own safeguard clauses when taking into account the impact of its projects on indigenous peoples (drawn up in 1991). The national strategy for the development of pygmy indigenous peoples, endorsed in June 2009 in the presence of the Minister, is the response to that concern.

5.3.2 **Opportunities**

Trade in forest products

5.194 Within a radius of 80 km. around the principal navigable routes, the DRC has a potential unique in Africa of some 55 million ha. of exploitable forest, corresponding to annual production, if properly managed and with rotation every 30 years, of 6 million m.^{3} (*Revue économique*, 2003). The extent of the navigable river network would also allow the timber to be transported over long distances in rafts at low cost. The cost of exporting timber through the port of Matadi on the Atlantic (1,500 km. from Kisangani) is less than by road to the Indian Ocean.

5.195 The production potential is far from being reached and could easily be multiplied by four. Because of economic and legal insecurity, operators have tried to acquire large areas, often beyond their capacity to exploit them, and with large unproductive zones, in order to have vast production potential. For example, the major operators hold several concessions of 200,000 to 300,000 ha. totalling areas of 1 to 3.4 million ha. Production fell to around 50,000 m^3 between 1998 and 2003, but subsequently rose to 300,000 m^3 between 2007 and 2008 (Figure 38). These are extremely modest results in comparison with other forested countries in the region: 3.3 million m^3 for Gabon, 2.3 million m^3 for Cameroon, and 1.3 million m^3 for the Republic of the Congo (2007). This can partly be explained by the fact that species with export potential are relatively less concentrated than in other countries. Consequently, felling yields are 3-4 m.^{3}/ha compared to 10 m.^{3}/ha., in Cameroon or 50-80 m.^{3}/ha., in East Asia.

Figure 38: Estimated area and volume agreed for structural timber

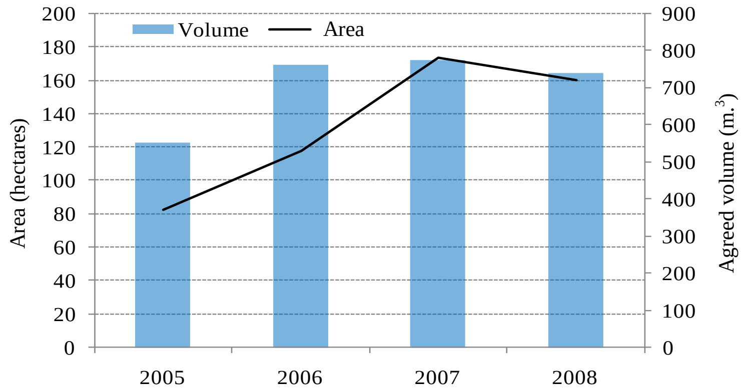
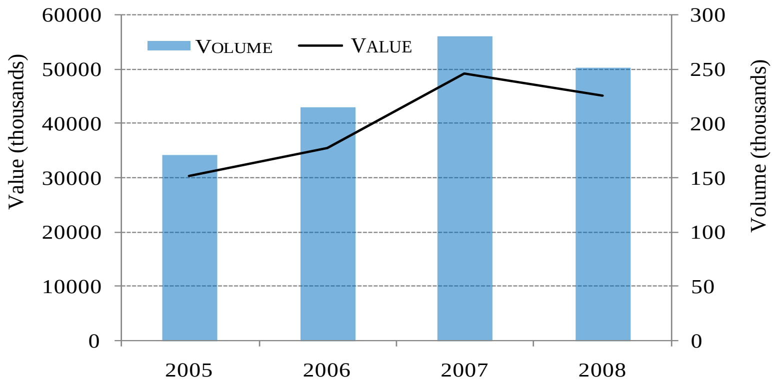


Figure 39: **Exports of structural timber**



5.196 There is also a potential market in Africa, particularly for processed products (sawn lumber and plywood). The margins are smaller than for export and only a small part of the formal sector's production today finds an outlet on the Congolese market. Local processing capacity is limited, particularly in the interior, because of lack of investment, local skills and, above all, the shortage of energy supplies for processing facilities. In 2007/2008, for example, two thirds of exports consisted of logs of species profitable with little or no processing (Wenge, Afrormosia).

5.197 Forestry and agro-forestry plantations are not yet very developed in the DRC and are the result of private initiatives or international cooperation. They are expected to develop around Kinshasa on the Batéké plateau as part of the carbon sequestration projects, for example, the Ibi project, wholly financed by the private sector, and the industrial production of charcoal combined with agriculture in Mampu, a project backed by the European Union. There is also a similar experiment in the Luki biosphere reserve (Bas-Congo), combining reforestation and sustainable agriculture, under the auspices of the WWF.

5.198 As to cash crops in forests, the areas occupied by oil palm or coffee plantations have shrunk considerably in recent decades because of the wars. Coffee production in forested areas is the basis for an interesting large-scale rural development endeavour linked to the market. Consideration is being given to projects to develop the cultivation of oil palms or even the production of biofuels, with large risks for biodiversity and the emission of greenhouse gases, but also for the local and indigenous populations' rights of use.

Carbon credits, a new way of developing natural resources

5.199 **A growth market.** The Kyoto Protocol came into force in 2005 and led to the creation in signatory countries of a market for the right to emit carbon into the atmosphere. The CDM allows Annex 1 countries (industrialized countries) to acquire carbon credits from developing countries. Demand in this market comes from companies that emit carbon but since adoption of the Kyoto Protocol have had to buy carbon credits in proportion to their emissions. The supply comes from operators of carbon projects in developing countries which lower their emissions below a baseline through incentives resulting from participation in the market. Accordingly, a signatory country emitting 1 billion tonnes of carbon in the base year and having committed itself to lowering its emissions by 10 per cent a year, will emit 900 million tonnes of credit the first year, 810 million tonnes the second year, and so on. Unless technological progress decreases demand at the same pace, the price of these credits will increase in proportion to the decrease in the supply. Increased prices will encourage enterprises to invest in less polluting technology to reduce the cost of buying credits, which is the result sought. Experience on the American market with emission credits for sulphur dioxide has shown that the system enables drastic reductions in emissions to be achieved at moderate cost to the economy - well below the initial projections.

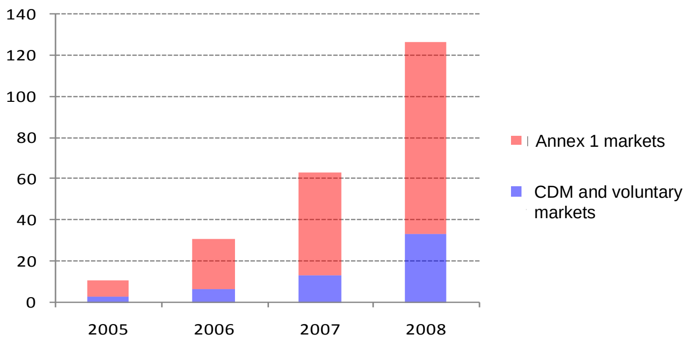
5.200 Countries that have made no commitment to reduce emissions, such as the DRC, may participate in this market through the CDM. This mechanism allows an actor in a signatory country (enterprise, NGO, etc.) to implement an emission reduction project in the host country (non-signatory) and obtain the corresponding carbon credits in its country of origin (signatory). These credits may then be resold or used directly. The host country receives compensation whose amount is directly or indirectly linked to the price of the carbon credits thus generated. In the DRC, two sectors in particular may be concerned: energy and forests.

5.201 The Congolese forest constitutes an important "carbon sink" at the global level and is therefore a latent asset in the same way as mining or hydroelectric resources. It is the foremost carbon sink on the African continent. Contrary to the situation that prevails in other countries with large forests such as Brazil, this asset is still virtually intact in the DRC, where the annual rate of deforestation has not so far exceeded 0.27 per cent. Developing this resource in the form of credits could therefore make it a non-negligible source of income.

5.202 The DRC's hydroelectric resources are also an important source of carbon credits. As explained later in the report, the DRC has hydraulic electricity generating capacity well in excess of current or potential national demand. Developing this potential can lessen use of fossil energy sources in the DRC and in neighbouring countries to which Congolese electricity could be exported. It is thus also a source of carbon credits provided that the criteria for access to the market for these credits are met (see below).

5.203 The carbon market is expected to grow rapidly, both in terms of volume and price, which will ensure that the DRC's carbon sinks are better used. Up until now, only 37 signatory countries to the Kyoto Protocol have been involved (the so-called "Annex 1" countries), especially the European Union, which has the most developed carbon credits market. It has developed rapidly, however, as can be seen from Figure 40. The outlook for development of the carbon market has become brighter with the planned creation of a domestic carbon market in the United States of America, with important links to the international market, which could lead to strong demand for credit in developing countries. The final adoption by the United States of legislation similar to that of the European Union would have the potential for raising the price of emission rights and, as a result, make use of the DRC's carbon sinks increasingly attractive.

Figure 40: **Growth in the carbon credits market**



Note: The amounts are in current US$ millions.

5.204 **A crucial challenge.** The challenge of preserving the forests is crucial. The forest ecosystems constitute major carbon sinks, sequestering over 600 Gt. of carbon, more than all the carbon contained in the atmosphere, and changes to use of the soil, particularly deforestation, account for 17 per cent of emissions. Furthermore, according to a recent study by McKinsey, "aforestation" (i.e. the conversion of non-forest land into forests), reforestation and the control of deforestation are low-cost ways of reducing emissions compared with the alternatives. Developing reforestation and aforestation are however still marginal on the carbon credits market. They account for less than 1 per cent of the projects approved by the CDM in 2008 (around 60 out of a total of 6,200 projects, 19 of them in Africa), and the price of forest-related carbon credits is relatively low (US$6 to US$8/tonne). This is partly because of the temporary nature of the credits given for reforestation and their relative difficulty in terms of management and governance. Despite this difficulty, their development potential, in terms of price and volume, is considerable and several funds[86] are currently available to encourage their development.

Box 15: The Ibi Batéké plantation

The Ibi Batéké plantation is situated on the Batéké plateau, 150 km. from Kinshasa. Its principal objective is to sequester carbon by planting 4,500 ha of species that grow rapidly. The forest, managed in accordance with sustainable forestry management principles, will produce wood to be turned into firewood and charcoal and will provide local jobs for the management and sustainable exploitation of the resource.

The investor is the Congolese company Novacel. Initial investment is US$3 million, financed through a loan from the private sector (Suez and Umicore), and through the sale of carbon credits, bought by the World Bank's BioCarbon Fund and Orbeo (Société Générale and Rhodia). The project will generate 2.4 million tonnes of carbon credits over a period of 30 years, 0.5 of which are for the BioCarbon Fund and 10.5 for Orbeo. Part of the funds generated by the sale of carbon credits will be used for local projects in the areas of health, education, and forest management.

The question of property rights has been resolved by granting a legally-recognized property deed to the Mushiete family, the owners of the land, together with a lease-back arrangement with Novacel, the investor, giving it the use of the land and the ownership of the trees. Novacel was also recently recognized as the owner of the carbon credits, which is a legal innovation in the absence of appropriate legislation.

5.205 The REDD mechanism has particular potential for the DRC. Its aim is to compensate tropical countries for the opportunity cost of reducing deforestation and degradation of their forests and increasing the stock of carbon there through the sustainable management of the forests and their replanting. The arrangements for the REDD, including the source of funding (carbon market and/or international financing with Government funds) and the scope of the activities to be offset, are currently being negotiated. It is likely that large sums will become available in the future. If the DRC is to take advantage of these flows, it will have to meet sensitive governance challenges such as the question of revenue-sharing among actors, insecurity of land tenure and the legal framework for forests, not yet complete.

5.206 For the time being, the DRC is at the preparatory phase of the REDD (REDD "Readiness"), with the support of the World Bank's FCPF and the UN-REDD programme. This phase includes the preparation of a national reference scenario, a national strategy for controlling deforestation and the introduction of a system for monitoring and verifying deforestation emissions. This preparatory exercise has highlighted a number of challenges.

5.207 Firstly, the establishment of a national REDD programme requires that the opportunity cost of keeping land as it is or making it into forests has to be calculated. This opportunity cost is currently low in the DRC because of the difficult economic environment. Nevertheless, the DRC's future economic development will encourage the emergence of activities that compete with sustainable management of the forests, for example, developing highways (which will encourage uncontrolled clearing), mining, or the timber industry, or simply demographic pressure. The opportunity cost of keeping land as forest is thus likely to increase sharply and, with it, the cost and difficulty of the

[86] See the World Bank's Carbon Finance Unit website at http://go.worldbank.org/51X7CH8VN0.

monitoring needed to ensure the credibility of commitments. To be accurate, calculation of the opportunity cost should take into account future trends, i.e. the predictable development of alternative uses for the land. Close coordination between the forest conservation strategy and the development strategy is crucial in this regard.

5.208 Secondly, managing a national REDD programme raises sensitive governance issues. Sharing the potential benefits of the REDD among those sectors having rights in the forest (the State, the local population, the private sector) and among the various levels of the Government has to be clarified in order to prevent heated disputes. Likewise, the roles and responsibilities of actors in a national REDD programme must be discussed and agreed among all. If the DRC is to benefit from the international resources earmarked for the REDD, a transparent scheme for monitoring forest cover and its emissions has to be set up and other variables for reducing deforestation (for example, rural poverty and biodiversity indicators) have to be developed and regularly evaluated by the international community. Lastly, the challenges of governance in the forest sector mentioned in this report remain an obstacle for the REDD and have to be clarified.

5.3.3 **Constraints**

Access to resources: Award of title deeds

5.209 In addition to drawing up the Forest Code, facilitating access to forest resources, necessary for development of the activity, requires the adoption of corrective and preventive measures to remedy what has been inherited from the past: conversion of old forest title deeds.

5.210 When reform of the sector begun in 2002, some 44 million ha had been allocated in the form of concessions granted prior to or during the war. An initial effort at adjustment was made in April 2002, resulting in the annulment of 163 title deeds covering 25.5 million ha. for failure to comply with the contractual obligations (fiscal offences).

5.211 In May 2002, a ministerial decree imposed a moratorium on the granting of new deeds and on their renewal or extension while awaiting (i) the evaluation of the legality of existing deeds; (ii) the introduction of a transparent system for awarding titles; and (iii) the adoption of a planning tool for new awards in the light of the needs defined in a new national policy on forests. The forest authority violated this moratorium during the transitional period (June 2002 - February 2007): some 15 million ha thus became the subject of an award or transaction (in particular, exchange and relocation), resulting in a net increase of 2.4 million ha. The total surface of concessions was 20.4 million ha when the Government elected in the general elections took office (equivalent to one third of exploitable forests).

5.212 Following the legal review completed in December 2008, almost half the 156 deeds subject to conversion, i.e. 65 deeds covering 9.7 million ha were deemed to be convertible under the new forest regime (i.e. less than one quarter of exploitable forests). The situation concerning another 2.7 million ha, covered by 16 deeds, is still awaiting decision, and the other deeds should be annulled according to the criteria laid down in Decree No. 090 of January 2009. This figure of 9.7 million ha corresponds to "paper" data used by the authorities to award concessions. The figures obtained by the SPIAF (the service responsible, *inter alia*, for forest inventories, which receives international support for computerized mapping), using geographical information systems, show an actual area of around 12 million ha. This discrepancy underlines the administration's management problems, using maps that are in part outdated. These problems were highlighted in the legal review when preparing the list of deeds subject to the surface rent: the DGF and DGRAD lists did not correspond.

5.213 At the end of the consideration of appeals (end of December 2008), the CIM made "special comments" on 16 deeds because of the scope of the investment made, the large number of local people employed and the visibility of the economic and social achievements. This position, which presages a favourable conclusion to the administrative appeal allowed under the decree on conversion, was defended by the Minister himself with reference to the current crisis in the subsector and for which he obtained the Government's support in the Council of Ministers. This position was strongly contested by international environmental NGOs and their local counterparts as a return to discretionary practices and depriving the legal review itself of credibility. There are now 16 appeals under consideration. At a multiparty "post-moratorium" workshop organized with the support of GTZ, participants emphasized the importance of following up the annulment of deeds in accordance with the criteria defined in Decree No. 090 of 23 January 2009.

Governance

5.214 In addition to drawing up the Forest Code and converting former forest title deeds, a return to good governance in this sector requires three important steps: (i) rebuilding institutions through fiscal reform; (ii) regulating the timber industry; and (iii) implementing decentralization of the forest sector.

5.215 **Fiscal reform.** In 2002, fiscal revenue from the timber industry (Treasury and FRCF, excluding general taxation of enterprises and other mandatory levies) barely reached US$2 million, whereas the structures imposing levies on timber exported (State-owned enterprises and administrative entities) accumulated almost US$1.8 million. Fiscal pressure on the industry is therefore less the result of the level of taxes imposed by the State than the level of taxes, on a more or less legal basis, adopted according to circumstances and financing needs by public authorities, State-owned enterprises or local authorities for services that are often non-existent.

5.216 The economic review of the forest sector conducted in 2003 at the initiative of the World Bank led to the adoption of the Inter-Ministerial Decree of 17 March 2004 reforming taxation applicable to the timber industry in order to (i) make it clearer and more attractive for forest operators; (ii) restrict speculation; and (iii) finally end the paradox between the fiscal pressure on enterprises and the low amount of the State's fiscal revenue.

5.217 Not all the review's recommendations were adopted. Some State-owned enterprises continue to apply fiscal pressure on the industry (OGEFREM, RVF). The strongest resistance came from ONATRA, which has a monopoly of port facilities. Although strong pressure made it lower its rates from USD$16 to US$5/tonne for timber, it has long maintained its rate for timber exported in containers, in violation of the Decree. For over ten years, industrial operators have had to pay a demi-transit tax whose purpose was to be able to rehabilitate goods wagons and engines, but after ten years the only result is that the number of engines and trains continues to decrease despite the amounts collected.

5.218 The change proposed by the review from "port taxation" (taxes affecting exports) to fiscality that is more balanced between the downstream and upstream branches (with an increase in the cost of access to the resource by raising the surface rent) posed a problem for private operators inasmuch as for them it was a fixed cost whereas exploitation is unpredictable (particularly in the absence of any precise inventory and development plan) and the price of timber on international markets is unstable. For the 2003 economic review, operators listed 155 taxes, today it lists over 170. Likewise, fiscal pressure was estimated be 20 per cent on average per $m.^3$ of timber exported, today it is 30 per cent.

5.219 Following the increase in the surface rent, in 2004 fiscal revenue from the timber industry was close to US$3.5 million, compared to US$2 million in 2002. Often not all of it is collected because of communications problems between authorities and the absence of procedures to check consistency.

5.220 **Regulation of the timber industry.** The Forest Code provides that a forest concession contract should be in two parts. One is the contract itself; the other is the terms and conditions, one component of which is technical and the other social, providing for the establishment of "social infrastructure and the supply of socio-economic services" (schools dispensaries, bridges, etc.) for the benefit of the communities bordering the concession. The legal review provided an opportunity to evaluate the terms and conditions negotiated since 2002 under the pressure of local populations made aware of their rights by NGOs. The results were sometimes non-existent, often not very conclusive and not always in accordance with local expectations as negotiations were also sometimes subject to pressure from the local authorities which the concessionaires had "won over" to their cause.

5.221 Some NGOs openly opposed to the industrial exploitation of timber hope that with the negotiation of the terms and conditions they have found the means to "bring to an end" the concession model. They encourage local communities to make stronger demands to such an extent that negotiation becomes impossible, so the contract cannot be signed. Officially no felling permits have been issued for 2009 (which may be understandable in the current crisis in the sector), but extensions of permits have been requested.

5.222 By requiring forest concessionaires to draw up an inventory of the resource and have a forestry plan (long-term planning for felling, operations, and measures to protect the environment and the local population), the Code introduces an innovation into forest management in the DRC. Because there is not the necessary competence within the administration to draw up these inventories and plans, the Code gives enterprises the technical and financial responsibility for them. As the enterprises themselves do not have all the competence required, they subcontract the task to design offices (forestry planners) such as Forêts Ressources Management (FRM), which took part in drawing up the first plans in the DRC.

5.223 The monitoring services in the Ministries are very poorly equipped (travel and communications resources) and do not have the competence (knowledge of the regulations, interpretation of documents) to carry out their task of monitoring violations of the Code, combating illegal logging and tax fraud. Moreover, the salary of forest inspectors is very low and paid irregularly. The rare checks on the concessions can only be conducted using the forest operator's own means of transport, and he will also be asked to pay the official's travel expenses. Under such conditions, where the official's main motivation is his own survival, no real control is possible. In addition, the Code gives forestry officers the possibility of reaching a compromise depending on the amount of the fine imposed, but above a certain threshold only the Secretary-General or the Minister may decide. For officials, therefore, these are economic opportunities that incite them to detect minor offences over which they have control and enter into a transaction rather than penalize more serious offences.

5.224 **Implementation of decentralization.** The Constitution of February 2006 provides for an increase from 11 to 26 provinces within a period of 36 months, with the new provinces replacing the districts where they existed. In addition to the provinces, it gives towns and local communities (in urban areas), sectors and tribal areas (in rural zones) legal status as decentralized territorial entities.

5.225 The introduction of provincial Governments in 2007 following the 2006 elections resulted in a trial of strength with the central Government concerning the application of the 40 per cent retrocession from the surface rent, as provided by the 2002 Forest Code but never applied up until then. As the 2006 Constitution provides for a deduction at source on national revenue, of which the surface rent forms part, the governor's office in Eastern Province asked foresters to pay to it the share accruing to the province, so the three large forest provinces will be the major losers if the 2006 Constitution is applied strictly. Most forestry taxation (of which the surface rent forms an important part) is collected in Kinshasa and not in the place of origin of the timber on which the tax is imposed. On the other hand, the provision in the 2002 Forest Code under which the 40 per cent retrocession of the surface rent goes to the timber's place of origin, was particularly favourable to them. In October 2007, a compromise was reached at the National Forum on Decentralization. The Government will retrocede a "subsidy" monthly for the functioning of the provinces, remedying these imbalances.

5.226 In 2008, however, Article 54 of Law No. 08/012 of 31 July 2008 containing the basic principles for the independent administration of the provinces (LAP) stipulated that the deduction at source is through an automatic payment of 40 per cent into the province's account and 60 per cent into the Treasury's general account, the mechanism to be operated by the Central Bank pursuant to the Finance Law. According to Articles 49 and 50 of the same law (LAP), the surface tax on forest concessions is a tax of common interest that is part of the province's own resources. The three forest provinces, therefore, used Article 50 to require forest operators to pay the surface rent directly and in full to the province because it is part of their own resources. For the time being, the Ministry has not agreed to a compromise (settlement of the issue is referred to the Finance Law, which is being revised) and operators are obliged to comply with its decision as their export contracts have to be endorsed by the DGF. By paying the provinces, the linkage with the DGRAD would become impossible and they would no longer have a felling permit.

Infrastructure

5.227 The extent of the navigable river network would allow timber to be carried over long distances at low cost. But the poor state of the navigation aids, the lack of availability of barges and the high cost of fuel do not allow this advantage to be used to the full. The cost of transporting timber to the Atlantic through Matadi (1,500 km. from Kisangani) is less than by road to the Indian Ocean.

5.228 The current ceiling of 500,000 m^3 on the timber industry's output corresponds to the maximum capacity of the port of Matadi. With such a physical bottleneck, timber exports will not expand, unless a large deep-water port is built on the Atlantic side (projects for a site at Banana have existed for many years).

5.3.4 Recommendations

Support for conceptualization of governance in the forest sector

5.229 An examination of the various texts available so far (Forest Code, 2006 Constitution, Law on the independent administration of the provinces, Basic law on decentralized entities) shows that the respective competence of the various stakeholders in management of the sector are not properly defined and the links among them have not really been formalized. This is particularly true for provincial and local authorities as the Code predates the Constitution.

5.230 This situation is the source of conflict of competence that could paralyse management of the forest sector and, as a result, arbitrary practices in the absence of any common frame of reference, which will be exacerbated when the authorities of the future decentralized entities take office.

5.231 This clarification of responsibilities is important at a time when several legislative texts are being drafted (framework law on the environment, nature conservation law, Water Resources and Agricultural Codes) and will have an impact on management of the forest sector, particularly development at the provincial level.

Clarify the body of regulations applicable to the forest sector and disseminate it

5.232 Among the uncertainties that came to light during the process of drafting the implementing texts, it appeared that some texts had not yet been published or that the reference to their publication in the Official Journal was not accessible (Order No. 036 of 5 October 2006); for others, the annexes were missing (they will henceforward be made available, but need to be republished: Order No. 035 of 5 October 2006, for which the annexes came out in October 2008). Still others raised problems because they had not been the subject of consultation with the stakeholders (Order No. 011 of 12 April 2007).

5.233 The forest authority needs to clarify the status of the texts regulating forest management and compile them in a body of texts to be published in the Official Journal, transmitted to institutional stakeholders and accessible on the Ministry's website. Access to legal information is not, however, an end in itself, it must be possible to interpret it. Public information tools are needed, intended for the authorities, elected officials and civil society organizations in particular. These documents (body of texts and public information tools) will have to be updated to incorporate future texts.

Support for setting up consultative councils

5.234 By bringing together all stakeholders twice a year, they could play an important mediation role, preventing and arbitrating disputes in order to reach compromises on the use of forest areas. They would also be the appropriate forum for discussing the application of legislative and regulatory measures and for transmitting information to the Executive, especially on practices by local authorities. Their findings should be made public.

5.235 The mediation role could also come into play when negotiating terms and conditions. The recruitment of a consultant is under way at the SPIAF to draw up model terms and conditions, but these have to be put into effect and negotiations must be fair, both to guarantee the rights of local communities and to prevent inappropriate demands. While this role appears to belong to NGOs, they must not be allowed to use it to advance their own agendas. The supervisory role given to the local authorities by the implementing texts must also be monitored.

Improve the quality of forest information to securitize fiscal revenue

5.236 In its role of conserving all acts and documents concerning forest management, the Forest Register is an essential tool for transparency. As provided by the Code, it must be present in all the provinces, and even at territorial level where forests play an important role. It must be freely accessible and should be computerized in order to serve as a unique and reliable source of information. This is an essential objective with a view to the FLEGT but also to securitize retrocessions to decentralized entities.

5.237 It is difficult to obtain an overall picture of the taxable flows (production, export, areas held). The World Bank envisages the deployment within the Ministry of a system for the application of forest regulations arranged around two forest information systems (SyGIF and SIGEF), with the SGS in order to have a self-financing system. This information system would benefit from being linked to the inter-ministerial programme for the securitization of specific revenue generated by natural resources (mining and forests) envisaged within the FED framework.

5.238 It is proposed to put in place an independent forest observer, who would not replace the regulatory monitoring responsibilities of the authorities. He would act to ensure transparency (his reports would be public) and the objective nature of the monitoring, but would also build the capacity of the various stakeholders (the authorities, civil society). Such an experience has already been carried out in Cameroon by Global Witness, then by Resources Extraction Monitoring (REM). Global Witness has already undertaken an evaluation mission for the DRC at the initiative of the European Union. The choice of Global Witness is, however, problematic because of its activities as a very hostile opponent of the forest industry.

5.239 Support for the completion of contentious proceedings and the effective termination of annulled deeds. The post-moratorium workshop organized by GTZ in March 2009 made recommendations on the follow-up to implementation of Order No. 090 of 23 January 2009 on the annulment of former forest title deeds. It recommended the preparation of a guide by MECNT covering the roles and responsibilities of each stakeholder, providing for an eventual follow-up to contentious proceedings, taking into account the lack of capacity in the courts.

Ensure monitoring of retrocession at the ETD level to be used for local development

5.240 There needs to be an incentive mechanism for the ETD. It could be in the form of a fund financed by donors in proportion to the amounts actually deposited as retrocession. The local authorities would find it in their interests to transfer all the amounts levied in order to benefit from co-financing. In addition, the amount paid in by donors would be made public so it would be easy for other actors to check how much the province had actually transferred in the form of retrocession.

Lay the foundations for regulation of the small-scale sector

5.241 Small-scale operations are the poor relation in the Code and the blind spot in the reform. It is important to regulate them as the industrial sector is preparing to work according to a plan and the efforts made to regulate the formal sector should not be negated by an expansion of the informal sector.

5.242 In addition to qualitative surveys, there need to be quantitative data on the exploitation and consumption of structural timber and fuelwood. The means to conduct such surveys on a large scale have to be provided, starting by sending market researchers to record flows on urban markets (where it is relatively easy to obtain figures compared with mobile sawing facilities).

5.243 Regulations on forest communities should also be strengthened, in accordance with the Code, which provides that small-scale operations should take place there. One of the questions discussed today is whether exploitation should only be in community concessions or, as is now the case, in all protected forests.

Redefine zoning priorities

5.244 Zoning precedes a necessary planning exercise that should bring to an end the overlapping of mining, land and forest title deeds and their encroachment on protected areas or legally converted concessions. An inter-ministerial arbitration mechanism should be established to deal with any conflict of priority between mining, petroleum and forest activities and should take into account the permanent forest domain. It should be accompanied by participatory mapping exercises in order to prepare the creation of the local community concessions envisaged in the Forest Code.

Move ahead with the preparatory process for the REDD

5.245 With the support of the FCPF and UN-REDD, the DRC should pursue the process of preparing the country for participation in the REDD international mechanism. This preparation includes: (a) drawing up a reference scenario for deforestation and degradation emissions; (b) development of a relatively holistic National REDD Strategy, taking into account instigators of deforestation other than the forest sector, for example agriculture and energy; and (c) implementing a system for monitoring and verifying deforestation emissions. These activities should follow the international standards being developed. Moving ahead with reform of forest governance should be at the heart of the process of preparing for the REDD.

ANNEXES

Annex 1 Legal Classification of Forests

Legal terminology	Listed forests	Protected forests	Forests for permanent exploitation
Priority use	Conservation of biodiversity	Socio-economic development	Sustainable production of timber or other forest goods/services
Domain status	Public domain (act of listing)	Private State-owned domain	Private State-owned domain
Proportion of the national territory	Objective 15%	Not specified (category by default)	Not specified
Form of management	Research, tourism, conservation	Traditional (by virtue of rights of use) Community concession possible	Forest concession contract for the timber or other goods/services
Principal management tool	Development plan	Development plan (if community concession)	Development plan
Responsibility for management	State	Not specified Community if concession	Private operator holding a concession contract Under State control through the forest authority or decentralized administrative entities
Common law rights of use	Restricted	Unrestricted (unless there is a development plan for the community concession)	Maintained (except for agriculture)
Long-term outlook	Sustainability of the natural forest	Possible conversion to other uses of the land	Sustainability of the natural forest

Annex 2 Customs clearance procedures

A1. This annex explains and comments on customs clearance procedures.

1. Matadi corridor - Kinshasa

1.1 Customs procedures

A2. An import application comprising 25 documents issued by eight different services is required for administrative processing (cf. Volume II, Technical Paper No. 5, Annex 1, not taken into account: the invoice and the bill of lading are purely commercial documents but are required by the administrative services). Annex 2 to the aforementioned Technical Paper describes the application stage by stage, the following paragraphs set out the main principles:

A3. **Prior to arrival of the vessel**, imports are subject to three formalities:

- First, an import licence/declaration, issued by the Central Bank, must be obtained and deposited with a private bank.
- Second, the import licence application is sent to BIVAC, which begins the preshipment inspection and AV procedure, certifying the goods (value, volume, type) prior to loading. The AV is usually available in the DRC in BIVAC offices before the goods arrive. The procedure concludes with authentification of the hard copy by the OCC/DGDA unit within BIVAC, from which the importer obtains the document. This stage may cause delays (source: forwarding agent); and, in addition, is superfluous because the customs offices in the first line have access to the BIVAC database, which shows the AVs approved.
- The third formality is for the shipping agent to obtain a FERI. OGEFREM manages the FERI. The information contained therein is usually identical to that in the BIVAC AV because it is drawn up afterwards. In addition, it is prepared according to the same logic: OGEFREM has foreign partners responsible for collecting the information in the loading ports.

If there is no FERI and/or AV, the OCC is responsible for preparing these documents at destination, applying penalties (3 per cent of the c.i.f. value for the AV).

Acceptance by the customs. This commences with obtaining the manifest. According to the regulations, this manifest must be submitted 48 hours before the ship arrives. For shipping matters, at Matadi, ONATRA and the shipping companies, except for SAFMARINE and CMDC, which have direct non-stop services at Pointe Noire, claim that transhipment at Pointe Noire prevents them from complying with the regulations, but this argument is not admissible because documents can be transmitted electronically between Pointe Noire and Matadi.

A4. Before goods can be unloaded, the quarantine services go on board and then authorization from DGDA and OCC is required. The goods are inspected by DGDA, ONATRA and OCC officials, which each draw up their own records (entered by computer, checklist and tally). The manifest is then submitted in hard copy to DGDA, which enters it into the ASYCUDA system (entry of manifest box), together with a checklist record. At the same time, acceptance of the goods is recorded by hand in a register. It should also be noted that OGEFREM is involved in the process of entering the detailed manifest/declaration by the customs. OGEFREM compares the value of the freight declared in the freight manifest, the bill of lading with that appearing on the FERI in order to determine the (highest) taxable value established by DGDA. The same information must be sent to OCC to determine the c.i.f. value used by the latter for the invoice.

A5. **Detailed declaration.** The person making the declaration enters the detailed declaration at the customs office in the port of Matadi. He submits it at the acceptance counter, which checks that there is an AV.

A6. Following the declaration, DGDA issues a "prepayment" note based on the taxable value it has determined - which may or may not use the values transmitted by BIVAC and OGEFREM. In fact, these do not appear to be legally binding on DGDA. Based on this note, the person making the declaration pays the total amount to the bank, which pays it into the bank accounts of those entitled in accordance with the respective memoranda of understanding and gives a receipt. An electronic signal is sent to DGDA and the customs officer authorizes printing of the declaration. The final declaration, printed together with the receipt, is given to the customs acceptance services by an agent of the CTC, which affixes a stamp stating whether or not its officials should follow it up.

A7. **Inspection.** The declaration depends on physical inspection by an inspector from the control service. Physical inspection applies to 100 per cent of declarations. In 90 per cent of the cases, the container is unpacked (source: forwarding agent). The inspection certificate is filled in, electronically, and then returned to the inspector, who is responsible for the final payment, and then to the deputy director, who gives his agreement to the clearance note, which is returned to the inspector, who issues the actual note. Then it is sent to the customs officer, who signs it and the payment is cashed.

A8. If the goods are to be transferred to Kinshasa, the formalities are exactly the same but the goods are covered by a permit subject to security.

1.2 OCC procedures

A9. At the same time, the person making the declaration has to go through a second series of controls at OCC. **He submits his application to the OCC division at Matadi (outside the port)** comprising the following:

- Four copies of the invoice;
- bill of lading;
- FERI (either drawn up on loading or endorsed by OCC at destination at the request of OGEFREM or certified by OGEGREM upon arrival);
- declaration order;
- client's invoice;
- *laisser suivre* (authorization to go ahead);
- authenticated BIVAC AV;
- attestation of origin (used clothing);
- authorization to import if required (foodstuffs, pharmaceuticals);
- fumigation certificate (used clothing).

A10. The OCC's "import control" service in the Matadi division **(in town)** cross-checks the information. The application is then sent to the "central price office" **(in the port)**, which draws up a note of the value. It is also responsible for adjustments if there is no AV on the basis of the service on the quay which has compiled the checklist (entered by computer).

A11. The application is transmitted to the OCC's one-stop shop (port), which registers it. It is examined by the "applications acceptance" office. DGDA's manifest is compared with the findings of the service on the quay. If they correspond, the office gives the application a number. If not, the application is rejected.

A12. The application then goes to the "codification office", which enters the information in the computer system, checks the tariff heading and enters the information in the invoice and the bill of lading. After this it goes to the "invoicing office", which checks the AV value against the value verified by the central price office The fees are calculated as follows: control fees, tally fees and additional charges as determined by OCC. **The taxable base is the OCC value and not the value accepted by DGDA as regards not only the f.o.b. value but also the freight and insurance value.** Controls by OCC are on the VERITAS (BIVAC) basis.

A13. OCC also takes part in the visit with the customs, DGM and ANR. It reserves the right to inspect the quality of the goods, taking samples if needed, in addition to verifying conformity with the information given in the AV. This is done systematically for pharmaceuticals and foodstuffs.

A14. **Exit of the goods.** After the DGDA visit has been completed and the clearance note issued, DGDA's acceptance service issues an exit voucher to the person making the declaration. The DGDA brigade records the actual exit in a register. OCC's services note the exit. If the carrier has no security or if there is a change of vehicle, the goods are escorted by DGDA and OCC at a cost of US$800/five vehicles for three or four days.

1.3 Other formalities

A15. If the goods are unloaded outside the opening hours of DGDA's services, a request for special services and a written authorization are required.

A16. If there is an increase in the duties and taxes, DGDA's services draw up a report and put a cross-entry in the computer system.

A17. Each application is the subject of an hourly control sheet. This is filled in at Kin Est and Kin Aéro but not at Matadi.

A18. When the goods are actually put up for consumption in Kinshasa or Matadi, OCC systematically controls their quality (source: importer).

1.4 Exports

A19. Overall, the export procedure is identical to the import procedure (25 documents to be submitted and/or endorsed by at least one administrative service). The same services require formalities that obey the same principles: an export licence for the Central Bank, inspection reports for OCC (ONC for coffee and other agricultural products) without BIVAC participation and the physical presence of DGDA, ANR and OCC officials when goods for export are unloaded and put into containers in Kinshasa: DGDA acceptance and declaration and check lists for loading on the vessel. Overall, the export of timber/coffee from the decision to pack the container in Kinshasa up to the final instructions to the ship operator require some 20 to 26 working days, including the time for transport between Kinshasa and Matadi (48 hours). Further details are given in the annex to Technical Paper No. 5.

2. Procedures at Kinshasa

A20. There are two customs offices at Kinshasa - Kin Est and Kin Aéro.

A21. The Kin Est customs office deals with goods from Matadi (the most frequent case) coming from overseas and arriving by river and road. The Kin Aéro office only deals with operations and exports by air.

A22. On average, the Kin Est office deals with 1,000 declarations a month. The goods subject to a PAC from Matadi are unloaded in the presence of DGDA and OCC officials to be counted. The PACs are endorsed, recorded in a register and sent to the office of departure. The procedure for putting up for consumption begins as described above. OCC, ONATRA and OGEFREM are present in the warehouses/MADs in town. They are kept informed of the various stages in the procedure by the Kin Est system.

A23. The head of the office has introduced a verification of value by an inspector after the declaration has been registered, and then verification by four CTC consultants. The CTC, however, only deals with imports and not with internal excise duty (telephony, alcohol, etc.), which currently accounts for 60 per cent of the office's revenue.

A24. Kin Aéro office also deals with around 1,000 declarations a month, half of which are put up for consumption and the other half transferred to an office in town.

A25. The Kin Aéro office has a public warehouse and a concession for its management has been given to a private company (Pacific Trading). DGDA receives 30 per cent of the management fees invoiced by the manager. This warehouse is mandatory for goods unloaded from aircraft. The goods with a summary S4 declaration then go to a public warehouse either in the airport or in town. There, goods are under customs control (rather than warehouses, they are in-bond stores). The goods are escorted by DGDA customs police if the managers of the warehouses do not make approved vehicles available. Each warehouse can have two sections, one for Kin Aéro and the other for Kin Est. The legal length of stay is 15 days, but DGDA allow two to three months before placing the goods under the storage regime and envisaging their sale at auction. Each warehouse has its own customs clearance facility, which will be connected to ASYCUDA++.

A26. At Kin Aéro, the procedure is undoubtedly faster than elsewhere. All the services are grouped in the public warehouse, and the declarations are registered, accepted and transmitted to OCC all in the same room.

3. Procedures in Katanga and in the East

A27. Discussed in the body of the Chapter.

4. The impact of non-customs parameters on customs procedures

A28. The customs clearance process can be affected, in terms of duration and cost, by problems in institutions other than DGDA. The following comments concern Matadi and Kinshasa in particular.

A29. **Port of Matadi.** The port of Matadi's capacity is 3,500 containers and can go up to 4,500 to 5,000 (when stacked by four), six posts are operational on the quay out of ten potential (500m.). On average, it receives 40 ships a month.

A30. Delays in the time taken for transit can result from the following factors: (i) failure to dredge the channel; (ii) lack of quays (six out of ten potential quays operating); (iii) lack of equipment and ONATRA personnel at Matadi, who only handle goods two days a week (source: DGDA); (iv) discrepancy between the dates of receipt of the manifests entered by ONATRA, OCC and DGDA, which prevents the signal from the bank being shared; and (v) late arrival of the goods.

A31. Surcharges in other ports are the result of the following factors: (i) RVM invoices according to the tonnage of the ship and not the actual tonnage; (ii) the high cost of handling by ONATRA (€18/tonne for unloading, US$32/tonne for horizontal handling), bearing in mind that shipping and/or forwarding agents have to bring their own equipment because of the non-availability or dilapidated state of ONATRA's equipment; and (iii) surcharges (the indemnity paid by the charterer of the ship to the ship-owner when the ship is immobilized for longer than the time indicated in the contract) because of the slow pace of unloading. Regarding the latter point, ONATRA has even admitted that ten days are sometimes required to unload a ship, compared to a normal duration of five days - the surcharges can easily amount to US$10,000/day, giving US$50,000 in total.

5. The proliferation and overlapping of controls

A32. Three bodies (BIVAC, OCC, CTC) conduct customs-type controls either of the activities of DGDA officials or because they control the elements, essentially the value, which should be assessed by DGDA:

- BIVAC acts **upstream** of the procedure by attesting to the value;
- OCC intervenes **in customs clearance** to value the goods;
- CTC also intervenes **in customs clearance** by targeting declarations before verification and following control by the customs.

A33. Intervention by BIVAC occurs prior to shipment and therefore normally well before the goods arrive for customs clearance, at least in Matadi and Katanga. The BIVAC value, while remaining a very useful item of information, does not impede the import procedure and is not legally binding on DGDA. In fact, DGDA is sovereign thanks to the WCO agreements on customs value.

A34. CTC. The work of CTC experts mainly consists of giving DGDA's customs service support and adds nothing to specific procedures. It is not possible, however, to see whether the procedures are themselves slowed down by CTC.

A35. There is a great deal of overlapping between the activities of OCC, OGEFREM and DGDA. First of all, DGDA pays the amount due to OCC at the one-stop shop on the basis of data on the f.o.b. value and the value of the freight and insurance it has determined for customs clearance purposes. But OCC makes its calculation of the c.i.f. value for its own invoicing, also based on the BIVAC value and OGEFREM's estimates of maritime freight and insurance. The OCC values are often higher than those arrived at by DGDA for the calculation of import duties and taxes. This leads to disputes and fines that are often transactional, meaning additional levies by OCC paid outside the one-stop shop.

A36. Numerous signatures and checks are often required by each service within DGDA, OCC and ONATRA (customs declarations, checklists, reports on filling containers, clearance vouchers, loading instructions, etc.). In DGDA, the prepayment notes could be printed directly by the customs agents and submitted to the bank. In fact, however, they are issued and signed by the head of a customs service. This is superfluous because the revenue service checks the payment by endorsing the proof of payment when the electronic signal is received from the bank.

A37. Likewise, when checking the declarations and clearance notes, there is numerous to-ing and fro-ing of documents for approval, whereas they could be registered and consulted electronically, with "physical" inspection limited to a well-defined proportion. Moreover, the customs brigade systematically checks documents upon exit, even though the clearance has already been authorized by the customs officer.

A38. More generally, computer and manual procedures are duplicated in DGDA, ONATRA and OCC. Many of these procedures are of no use. The majority of the documents-papers correspond to entries in the information system that can be consulted directly on line. Moreover, the publication and circulation of administrative documents in hard copy raises the question of their "authentification", consequently of administrative endorsement and all that follows.

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