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Trade Policy Review Body

TRADE POLICY REVIEW

REPORT BY THE SECRETARIAT

DEMOCRATIC REPUBLIC OF THE CONGO

This report, prepared for the second Trade Policy Review of Democratic Republic of the Congo, has been drawn up by the WTO Secretariat on its own responsibility. The Secretariat has, as required by the Agreement establishing the Trade Policy Review Mechanism (Annex 3 of the Marrakesh Agreement Establishing the World Trade Organization), sought clarification from Democratic Republic of the Congo on its trade policies and practices.

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Document WT/TPR/G/339 contains the policy statement submitted by Democratic Republic of the Congo.

Note: This report is subject to restricted circulation and press embargo until the end of the first session of the meeting of the Trade Policy Review Body on Democratic Republic of the Congo. This report was drafted in French.

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SUMMARY

1. Since its last Trade Policy Review (TPR) in 2010, the Democratic Republic of the Congo (DRC) has introduced a number of structural and economic stabilization reforms, with or without the help of technical and financial partners, enabling it to achieve sustained economic growth during the review period at an average annual rate of 7% - well above its 3% population growth rate – and to move up 12 places on the Human Development Index. Thanks to a generally restrictive monetary policy, inflation was brought down from 7.1% in 2010 to 1.03% in 2014, its lowest level in 50 years. On the budgetary front, increased government revenue helped to reduce the public deficit and in some years even to achieve a surplus (based on payments). In spite of external shocks, in particular the fall in its raw material export prices, proper management of the country's capital account and financial transactions enabled it to achieve balance-of-payments surpluses and to build up reserves.

2. In spite of the country's numerous strong points, such as its vast territory, favourable climate and fertile soil, abundant forest, lake, petroleum and mining resources and its 7% average economic growth rate since 2010, the DRC remains a least developed country, with a per capita GDP of US$480 in 2014. Its economy is heavily dependent on the mining sector, which accounts, on average, for a quarter (approximately 24%) of GDP and about 85% of export revenue. Agriculture is underdeveloped relative to the country's potential (18% of GDP on average and only 3% of export revenue). The manufacturing sector is in its infancy (around 10% of GDP) because of supply-side constraints such as the poor state of transport infrastructure, the non-availability of inputs such as electricity, and a financial system that mainly focuses on import/export activity. Services, representing around 40% of GDP, have displayed burgeoning growth since 2000, particularly in the mobile telephony segment. Telecommunications services have become the second source of revenue for the Government. The banking system, which remains relatively small compared to the size of the country and its population, contributes but little to financing the country's development. Most banking operations consist of deposit taking and short-term financing, and this does little to promote development, of small and medium enterprises in particular.

3. The Congolese economy is not very diversified; the DRC imports and exports a small range of products. Its principal imports include foodstuffs, chemical products, transport equipment and electrical and non-electrical machinery, and come mainly from the European Union, South Africa, Zambia and China. Its exports are still confined to primary (mining) products, chiefly cobalt, copper, diamonds, gold and petroleum. Its main markets are China, Zambia, the EU and the Middle East. Apart from Zambia and South Africa, official trade with other African countries is still negligible despite regional and bilateral preferential agreements that the DRC has signed but not yet fully implemented. The DRC remains a net importer of services. Travel (tourism) has dominated services exports, illustrating the country's considerable advantages as a tourist destination, whereas transportation has been the main import item because of the remoteness of key markets. The ratio of trade in goods and services to GDP of approximately 70% (not counting the extensive informal cross-border trade) is an indication of the importance of trade for the DRC's economy.

4. The DRC still faces enormous development challenges, such as its heavy dependence on the mining sector, the need to upgrade its infrastructure, its governance problems (including its public finance management system), and the weakness of its human development indicators. The greatest challenges remain the consolidation of economic growth at about 8% per year, and the need to make that growth inclusive through better distribution of wealth.

5. The DRC's trade policy is based on supranational regulations resulting from multilateral, regional, and bilateral trade agreements; but owing to the delay in implementing those agreements, the national policy component remains considerable. The ultimate aim of its trade policy is to ensure that trade contributes to poverty reduction by further liberalizing the trade regime; diversifying exports; stepping up the privatization programme and sectoral reforms (in agriculture, mining, industry and services); and through trade facilitation.

6. The DRC has been an original Member of the WTO since 1 January 1997. It is also a member of: the African Union, the African Economic Community, the Community of the Great Lakes Countries (CPGL), and three of the eight Regional Economic Communities (RECs) recognized by the African Union, namely the Economic Community of Central African States (ECCAS), the

Common Market for Eastern and Southern Africa (COMESA), and the Southern African Development Community (SADC). The DRC is engaged in the so-called "tripartite" negotiations aimed at harmonizing the rules of the East African Community (EAC), COMESA and the SADC. It has also concluded bilateral framework trade facilitation agreements with several countries. Over and above the costs involved, participation in numerous agreements could lead to a lack of coherence in the conduct in DRC's trade policy.

7. There has been no significant change in the regulatory framework for investment since the DRC's last TPR. The 2002 Investment Code remains the legal basis for investment in the country. This Code aims to facilitate and encourage domestic and foreign investment in spheres of activity which are key to the country's development, namely infrastructure improvement, economic utilization of natural resources, and the establishment of a sound industrial base. It provides for a single regime (the general regime), alongside special provisions for the SMEs. The Code applies to all enterprises that intend to develop an economic activity in the DRC, with the exception of activities relating to mining, hydrocarbons, banking, insurance and reinsurance, and defence and arms, as well as certain commercial activities. Investment in those sectors is governed by specific regulatory frameworks and special laws. Equal treatment of domestic and foreign investors is guaranteed, subject to reciprocity.

8. The tax system has undergone major changes since the last TPR, as a result of the introduction of value added tax (VAT) to replace the previous turnover tax (ICA). New Customs and Excise codes were also enacted and have been in force since 2012. Although fiscal reforms have been introduced, including the elimination of certain levies, the current tax system remains complex and involves a multitude of levies, including customs duties; VAT; excise duty; personal income tax (IRPP); corporation tax; registration and stamp duties on real estate transactions; local taxes; and other levies on specific products, transport, telecommunications, and so forth. In practice, multiple exemptions alleviate the overall tax burden to some degree, which explains why the 2015 tax burden was only 15.4% (of GDP), despite a corporate tax rate which alone is already at 45%.

9. The DRC has simplified its procedures and documentation in relation to trade. However, it has yet to notify the WTO of these measures in the categories provided for under the Trade Facilitation Agreement, which it has not yet ratified. It has adopted the 2012 version of the Harmonized Commodity Description and Coding System (HS). Its tariff is *ad valorem* for all its 5,842 lines and comprises four rates: zero, 5%, 10% and 20%. The modal rate of the tariff is 10%, and the simple average rate is 11.2%. On the other hand, 29.4% of tariff-lines (those with a rate of 20%) represent international peaks.

10. The DRC's tariff structure has remained relatively the same since the country's first TPR. Agricultural and non-agricultural products (WTO definition) enjoy about the same average levels of nominal tariff protection, 11.1% and 11.2% respectively. In ISIC terms, manufacturing is the most protected sector with an average rate of 11.4%, followed by the agriculture, hunting and forestry sector (10%), and finally the mining and quarrying sector (7.1%). A breakdown of the rates by HS chapter reveals a general increase in the protection levels to close to 20% for coffee and tea, beverages and tobacco, wood and paper, and textiles and clothing.

11. Overall, the tariff shows a slight positive escalation from raw materials (9%) to semi-finished products (9.6%) and a decidedly positive one towards finished products (12.7%). A more detailed breakdown (ISIC two-digit) shows that this overall structure is the result, *inter alia,* of the positive tariff escalation in the industries producing food products, beverages and tobacco; textiles and clothing; paper, articles of paper, printing and publishing; and chemical products. In these industries the positive escalation implies a relatively high level of actual protection, which is unlikely to boost the competitiveness of the products concerned and, consequently, their export.

12. At the same time, the raw materials used in certain industries (for instance non-metallic mineral products) enjoy considerable protection, well above the average rate of 12.3% for the manufacturing sector as a whole, which means that the cost of inputs and semi-processed products remain high. This kind of tariff structure does little to encourage diversification of economic activity through the processing of local raw materials prior to their export; hence the many tariff and tax reductions granted under different mechanisms. As a result of these reductions, the tariff escalation becomes positive, and hence exacerbates the effective protection

of the activities concerned. Moreover, the management of a regime of this kind has its cost, and its transparency remains limited.

13. The DRC has bound all its tariff lines at ceiling rates, the simple average of which is 96%, or 97.5% for agricultural products and 95.7% for non-agricultural products. While binding its tariff lines at ceiling rates leaves the DRC a broad margin to increase its applied rates, it does not guarantee the predictability of its tariff regime, which might deter a prospective partner, whether a trading partner or one seeking a stable environment in which to invest.

14. Other duties and taxes are bound at zero, but imports are subject to a large number of taxes that are unrequited or whose the proportions far exceed the utility of the services in question (rendered). In keeping with the principle of national treatment, the main internal taxes are levied on imports and domestic products alike. Moreover, despite the creation of single windows for imports and exports, several other institutions are still operating outside that framework, thereby prolonging the time required for administrative formalities and increasing their cost. Preshipment inspection is mandatory for most imports of US$2,500 or more, and the corresponding fees (0.75% of the c.i.f. value, with a minimum charge of US$100) are borne by the importer. The DRC has never made use of contingency measures, for which it has no legislation.

15. The DRC is still finding it difficult to implement its 2003 legislation based on the WTO Customs Valuation Agreement and utilizes reference values provided by the BIVAC. Setting up the national system of standardization, technical regulations and accreditation is proving problematic, and this raises questions about the validity and relevance of the various control procedures being conducted, including at the border, by a myriad of institutions with overlapping activities; all imports and exports as well as products placed on the domestic market are subject to systematic checks. Imported vegetables and vegetable products must be accompanied by a phytosanitary certificate and imported animals and animal products by a sanitary certificate, both issued in the country of origin.

16. Export duties are levied on green coffee; minerals and mineral concentrates; mineral oils; electric power; logs; edged timber; fresh water; and scrap metal. In principle, these duties are applied to certain products in order to encourage the local processing of natural resources. Nevertheless, a large quantity of mineral ores and logs are being exported with no prior processing. The DRC does not have any export promotion or assistance mechanism.

17. The new Government Procurement Code aims to encourage transparency and the use of tendering, with national and regional preferences. The DRC is pursuing its efforts to reform State-owned enterprises: approximately 20 companies are still in the State's portfolio, and the rest have either been rehabilitated, restructured or privatized. The country does not have any competition regime; the prices of certain goods and services, deemed to be "strategic", are regulated. Also, because the DRC is finding it difficult to enforce any intellectual property legislation, it has trouble controlling IPR infringements.

18. The DRC has also launched other reforms to facilitate doing business, including reducing the cost of obtaining a construction permit and the cost of registering a new building; abolishing or reducing the various costs associated with registering a new business; and abolishing a long list of "nuisance taxes". However, although some of these measures have been debated and adopted by the Council of Ministers, they have not yet been transposed into laws, which has not helped the DRC's *Doing Business* ranking. The country's current ranking reflects, among other things, the slow pace of applying certain measures, a degree of inconsistency in implementing others, and the need to improve follow-up, assessment and interministerial coordination.

19. The DRC has made commitments under the General Agreement on Trade and Services (GATS) in a number of services branches, namely construction and related engineering services, communication services, business services, education services, tourism and travel-related services, and recreational, cultural and sporting services. Some of these branches are being opened up almost completely, and others only partially. The extension of the DRC's multilateral commitments to all services categories that have already been liberalized should shore up the credibility of the reforms introduced, improve the predictability and transparency of the systems concerned and help attract the much needed capital for the DRC to realize its immense potential.

20. By continuing to implement its reforms effectively, and in particular to simplify and rationalize its tax system and the different controls, procedures and institutions involved at all levels, it should be possible for the DRC's economy to become more competitive and for new enterprises and jobs to be created.

1 ECONOMIC ENVIRONMENT

1.1 Main features of the economy

1.1. The Democratic Republic of the Congo (DRC) occupies an area of 2,345,095 km^2 straddling the equator in Central Africa. It is the second largest African country in area after Algeria, and it had an estimated population of 75 million in 2014, most of whom are young. About 42% of the population lives in urban areas. The country shares 9,165 km of borders with nine countries: the Republic of Congo to the west; the Central African Republic and South Sudan to the north; Uganda, Rwanda, Burundi and Tanzania to the east; Zambia to the south-east; and Angola to the south.

1.2. The DRC has huge economic potentials, with diversified land forms, hydrography basically consisting of the 6,000 km-long Congo river basin, and lakes and rivers either side of the equator. The Congo River provides a steady water flow and, with its mostly navigable tributaries, it offers enormous possibilities for river and lake transport. Influenced by land form, climate and hydrography, the country's soil and subsoil offer major and varied potentials in the areas of mining, energy, forestry, agriculture and fisheries (Section 4).

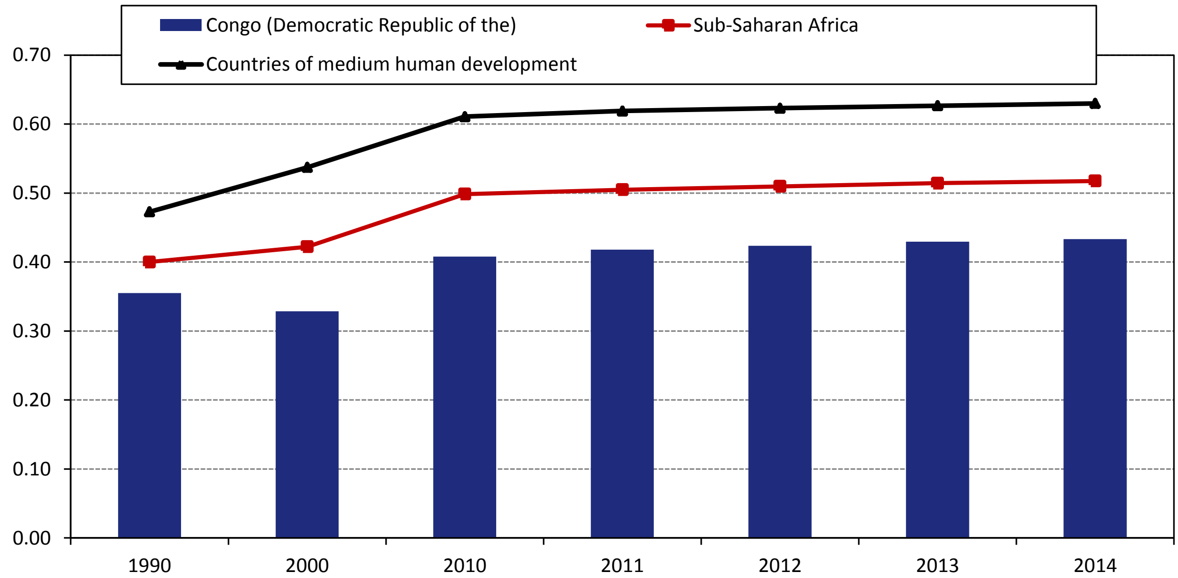
1.3. With a per capita GDP of US$480 in 2014, an average infant mortality rate of 76.5‰, an illiteracy rate of 66.8% among persons aged 15 years and older, life expectancy at birth of 50.1 years in 2014, and a largely poverty-stricken population, the DRC still belongs to the Least Developed Country (LDC) group — despite average growth of 7% since 2010 (Table 1.1). Development is marked by the contrast between the country's natural wealth and the poverty of the vast majority of its inhabitants. In the 2015 Human Development Report, the United Nations Development Programme (UNDP) ranked the DRC 176th out of 188 countries in terms of the Human Development Index (HDI: 0.43). The fact that it had previously been ranked 187th out of 188 countries in 2013, but with the same HDI of 0.43, suggests that this slight progress is not necessarily the exclusive result of the DRC's own efforts, but may also reflect slippage by other countries.[1]

1.4. The DRC is classified by the UNDP as a country of low human development, with a high indigence rate (71% of its population live on less than US$1.25 per day). It remains one of the poorest countries in the world, ranked almost last in terms of the HDI in 2013; and it failed to achieve any of the Millennium Development Goals in 2015. Having gone backwards between 1990 and 2000 following multiple wars and armed conflicts, among other problems, its general level of human development rose between 2000 and 2010; but since 2011 it has improved only very slightly (Chart 1.1). This marginal HDI progress in the last few years stands in contrast to the DRC's strong economic growth and low inflation during the same period. Far from reducing social precariousness following many years of war and armed conflict, which exacerbated unemployment particularly among young people, this non-inclusive growth has actually aggravated it.

1.5. The DRC still has progress to make in combating poverty, despite efforts in the spheres of health and primary education.[2] Its general level of human development is below the average for sub-Saharan Africa and far behind the average of countries in the medium human development group (Chart 1.1). Given its natural resources and abundant labour force, the DRC has huge potential for rapid economic growth and for reducing poverty and improving its human development indicators; but it has not yet harnessed these to its development. Bad governance - including mismanagement of the mining and quarrying sector, weak institutions, wars and conflicts - has prevented the population from benefiting from the country's incredible natural resource endowment.[3] To address this paradox, in May 2012 the Government reviewed and adopted the country's second-generation Growth and Poverty Reduction Strategy Paper.

[1] UNDP (2016).
[2] IMF (2015).
[3] World Bank (2013).

Chart 1.1 Trend of the human development index, 1990, 2000 and 2010-2014



Source: UNDP (2015), Human Development Report. Viewed at: http://hdr.undp.org/en/data.

1.6. The DRC economy depends heavily on the mining sector, which on average generates over 24% of GDP and about 85% of export revenues. Agriculture is poorly developed in relation to the country's potential (on average contributing 18% of GDP and just 3% of export earnings). The manufacturing sector is embryonic, representing around 10% of GDP owing to supply-side constraints such as the poor state of transport infrastructure, unreliable availability of inputs such as electricity, and a financial system that is mainly focused on import/export activities. Services, representing about 40% of GDP, have enjoyed a major boom after the 2000 decade, particularly in the mobile telephony sector. The predominance of the mining sector shrouds the relative importance of other activities in the Congolese economy, particularly in terms of employment and poverty reduction. Agriculture (including subsistence farming, livestock breeding, fishing and forestry) employs roughly 75% of the active population; and it provides the main income source for about 80% of the Congolese population (all rural activities combined) and nearly half of the country's food supply. The DRC is heavily dependent on the external sector; its goods and services trade to GDP ratio was close to 70% in 2015. Its balance of payments, which had been in deficit since 2000, has posted a surplus in the last few years following a recovery in the prices of commodities that it exports, such as copper, gold and oil (Table 1.1).

1.7. The informal sector represents a sizable share of DRC economic activity. The authorities estimate that informal employment accounts for about 80% of all non-farming jobs and generates between 20% and 25% of the country's GDP.[4] The sector is characterized firstly by a wide variety of actors and activities, and secondly, by its significant capacity to adapt to the evolution of the national economic situation. Craft production and trading, the dynamic components of the informal sector, have an important place in the economy. These two subsectors allow for lower-cost job creation, enable young people to gain practical skills, and help to conserve the country's cultural heritage, while serving the population's needs.

1.8. The development of the informal sector in the DRC stems from the lack of an employment policy, in a situation where unemployment is estimated at 60%.[5] It is also explained, historically, by the economic underachievement of the postcolonial state model; the lacklustre results of past economic reforms; and, lastly, by the successive socio-political crises that the country has experienced, particularly in the 1990s. This situation is aggravated by excessively rigid, lengthy and bureaucratic official procedures which inflate transaction costs, and by profits that are eroded by heavy taxation and a variety of expenses and charges, further compounded by corruption.

[4] The Central Bank of the Congo's estimate for 2010 was that the informal sector accounted for 70% of all jobs in the DRC.

[5] Central Bank of the Congo (2014). The unemployment rate should be treated cautiously owing to the size of the informal sector and the lack of reliable statistics on this subject.

1.9. The DRC continues to implement reforms aimed mainly at consolidating peace, security and stability; further consolidating its public finances and achieving macroeconomic stabilization. It continues to face huge development challenges, such as reducing reliance on the mining sector; diversifying the economy; and upgrading its infrastructure, governance, public finance management system, and human development indicators. The Government's greatest challenge is to consolidate a high rate of growth at around 8%, to be able to address the issue of inclusive growth and better distribution of wealth.

1.10. Since the last WTO review of the country's trade policy in 2010[6], the Government has launched a large-scale programme of structural reforms and governance strengthening measures, with a view to consolidating peace, promoting the country's economic and social development[7], and speeding up progress towards the new Sustainable Development Goals (SDGs). In this connection, the country has just adopted a new Strategic National Development Plan for the DRC, put forward by the Office of the President of the Republic on 22 February 2016. This new plan sets the goal of modernizing and industrializing the country by 2035, by developing a reinvigorated, competitive private sector capable of generating employment and helping to reduce poverty. Specifically, the plan aims to transform the DRC into a pool of intelligence and expertise; a wellspring of new citizenship and the middle class; a breadbasket; a major energy player; an economic and industrial pool; a land of peace and well-being; and a regional power at the heart of Africa (Section 2).

Table 1.1 Basic economic indicators, 2008-2015

	2008	2009	2010	2011	2012	2013	2014	2015
Miscellaneous								
Nominal GDP (CDF billion)	11,699	19,106	22,679	28,353	33,482	36,985	33,224	n.a.
Nominal GDP (US$ billion)	20.9	23.6	25.0	30.8	36.4	40.2	35.9	n.a.
Real GDP (percentage annual variation at constant 2005 prices)	6.2	2.9	7.1	6.9	7.2	8.5	9.6	n.a.
Per capita GDP (US$)	338	370	380	453	518	554	480	n.a.
Inflation (CPI, variation %)	17.3	2.8	7.1	15.3	9.7	1.6	n.a.	n.a.
Population (million)	61.8	63.8	65.9	68.1	70.3	72.6	74.9	n.a.
Urban population (%)	38.9	39.4	39.9	40.4	41.0	41.5	42.0	n.a.
Unemployment rate (%)	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.
Human Development Index (HDI)	n.a.	n.a.	0.41	0.42	0.42	0.43	0.43	n.a.
Infant mortality rate (per 1,000 live births)	89.2	86.9	84.8	82.6	80.5	78.3	76.5	74.5
	(% of GDP)							
Use of GDP (% of GDP at current prices)								
Gross domestic demand	105.4	107.4	107.3	105.2	105.4	103.1	n.a.	n.a.
Consumption	86.0	92.8	88.4	83.2	84.2	83.7	n.a.	n.a.
Public sector	4.4	8.3	9.4	10.7	9.9	9.9	n.a.	n.a.
Private sector	81.6	84.5	79.0	72.5	74.3	73.7	n.a.	n.a.
Gross investment	19.4	14.6	19.0	21.9	21.3	19.4	n.a.	n.a.
GFCF	20.1	13.6	17.6	21.1	20.4	18.7	n.a.	n.a.
Public sector	2.9	3.2	5.1	4.3	4.7	4.4	n.a.	n.a.
Private sector	17.2	10.4	12.5	16.8	15.7	14.3	n.a.	n.a.
Variation in inventories	-0.6	0.9	1.4	0.8	0.8	0.7	n.a.	n.a.
Net external demand	-5.4	-7.4	-7.3	-5.2	-5.4	-3.1	n.a.	n.a.
Exports of goods and services	36.9	21.2	35.4	33.1	24.8	27.8	n.a.	n.a.
Exports of goods	32.9	18.4	33.9	30.7	24.0	27.1	n.a.	n.a.
Mining products	31.8	18.0	33.3	30.3	23.7	26.5	n.a.	n.a.
Other products	1.2	0.5	0.6	0.4	0.3	0.6	n.a.	n.a.
Exports of services	4.0	2.7	1.6	2.4	0.8	0.7	n.a.	n.a.
Imports of goods and services	42.3	28.6	42.8	38.3	30.2	30.9	n.a.	n.a.
Imports of goods	32.3	20.9	32.1	28.9	23.8	24.9	n.a.	n.a.
Consumer goods	7.0	5.5	5.4	6.6	5.1	5.7	n.a.	n.a.
Equipment	18.6	11.7	22.8	17.9	8.5	16.2	n.a.	n.a.
Intermediate goods	6.7	3.7	4.0	4.5	10.2	3.0	n.a.	n.a.
Imports of services	10.1	7.7	10.6	9.4	6.4	6.0	n.a.	n.a.
Memorandum item: Trade (goods and services)	79.2	49.8	78.2	71.4	55.0	58.7	n.a.	n.a.

[6] WTO document WT/TPR/S/240/Rev.1 of 29 March 2011.

[7] In May 2012, the Government adopted the second-generation Growth and Poverty Reduction Strategy Paper (GPRSP 2) covering 2011-2015, together with a Priority Action Programme (PAP) to implement it. The latter specifies the GPRSP 2 sectoral policies by identifying actions that could have tangible effects on growth, employment and poverty reduction. This unifying document provides a frame of reference for international aid and public investment by all development actors.

	2008	2009	2010	2011	2012	2013	2014	2015
GDP by sector of economic activity at factor cost (at 2005 prices)								
Primary sector	32.4	33.9	40.8	43.4	43.3	43.3	n.a.	n.a.
Agriculture, forestry, livestock, hunting and fishing	20.9	20.9	20.2	19.5	18.9	18.1	n.a.	n.a.
Agriculture	20.1	20.1	19.4	18.8	18.1	17.5	n.a.	n.a.
Subsistence crops	19.8	19.8	19.1	18.5	17.9	17.2	n.a.	n.a.
Cash crops	0.3	0.3	0.3	0.3	0.3	0.2	n.a.	n.a.
Forestry	0.8	0.8	0.7	0.7	0.7	0.6	n.a.	n.a.
Livestock, fishing and hunting	0.0	0.0	0.0	0.0	0.0	0.0	n.a.	n.a.
Extractive industries	11.5	13.0	20.6	23.9	24.5	25.1	n.a.	n.a.
Mining of non-ferrous metals	5.2	6.0	11.8	13.7	13.0	13.7	n.a.	n.a.
Copper	2.1	2.0	3.7	4.2	4.9	7.0	n.a.	n.a.
Cobalt	3.1	3.9	8.0	9.3	7.9	6.5	n.a.	n.a.
Zinc	0.1	0.1	0.1	0.1	0.2	0.2	n.a.	n.a.
Other extractive industry products	6.3	7.0	8.8	10.2	11.5	11.4	n.a.	n.a.
Oil	2.5	2.8	3.5	3.9	4.7	4.2	n.a.	n.a.
Diamonds	2.3	1.9	1.7	2.2	2.0	1.9	n.a.	n.a.
Gold	0.0	0.0	0.0	0.0	0.0	0.1	n.a.	n.a.
Cassiterite	0.2	0.5	0.7	0.7	0.9	0.7	n.a.	n.a.
Coltan	0.0	0.0	0.0	0.0	0.0	0.0	n.a.	n.a.
Other minerals	0.0	0.0	0.1	0.1	0.1	0.1	n.a.	n.a.
Quarrying	1.2	1.7	2.8	3.3	3.8	4.4	n.a.	n.a.
Secondary sector	19.4	17.5	15.9	15.7	15.8	16.1	n.a.	n.a.
Manufacturing	14.8	12.9	11.6	11.1	10.9	11.1	n.a.	n.a.
Food, drinks and tobacco industries	11.2	9.7	9.2	8.4	8.6	8.9	n.a.	n.a.
Other manufacturing	3.6	3.2	2.5	2.7	2.3	2.2	n.a.	n.a.
Construction and public works	3.6	3.7	3.5	3.9	4.1	4.4	n.a.	n.a.
Electricity, gas, steam and water	1.0	0.8	0.8	0.7	0.7	0.7	n.a.	n.a.
Tertiary sector	48.2	48.6	43.3	40.9	40.9	40.6	n.a.	n.a.
Commerce	16.0	17.0	15.4	14.6	15.3	15.3	n.a.	n.a.
Transport and telecommunications	16.3	15.5	13.7	12.9	12.7	12.6	n.a.	n.a.
Other services excl. government	11.5	11.6	10.2	9.8	9.5	9.3	n.a.	n.a.
Government services	5.2	5.4	4.7	4.5	4.1	4.0	n.a.	n.a.
Financial intermediation services indirectly measured (FISIM)	-0.8	-0.9	-0.8	-0.8	-0.7	-0.6	n.a.	n.a.
Public finance	**(% of GDP unless otherwise indicated)**							
Total revenue	12.8	11.7	15.0	11.3	12.9	12.2	15.4	n.a.
Of which:								
General budget	12.8	11.7	14.9	11.3	12.9	11.2	14.2	n.a.
Current revenue	12.3	8.2	9.5	9.4	10.0	9.6	13.1	n.a.
Customs and excise revenue/DGDA[a]	3.6	2.9	3.3	3.5	4.0	4.1	5.4	n.a.
Tax revenue/DGI, excluding oil[b]	3.7	3.0	3.4	3.4	3.7	3.3	5.1	n.a.
Non-fiscal revenue	3.0	1.6	1.6	1.3	1.1	1.2	1.7	n.a.
Of which: DGRAD revenue, excluding oil[c]	1.0	0.9	1.5	1.1	1.1	1.0	1.5	n.a.
Revenue from oil producers	2.0	0.7	1.2	1.3	1.2	1.1	0.9	n.a.
Exceptional revenue	0.0	0.9	0.4	0.3	0.9	0.0	0.0	n.a.
External revenue	0.6	2.7	4.9	1.6	2.1	1.6	1.1	n.a.
Total expenses	11.8	10.8	14.8	12.4	11.7	12.5	15.7	n.a.
Of which:								
General budget expenditure	11.8	10.8	14.8	12.4	11.7	11.5	14.5	n.a.
Current expenditure	10.3	8.3	9.3	9.8	8.9	8.7	11.9	n.a.
Remunerations	4.2	2.8	3.4	3.8	3.6	3.8	4.7	n.a.
Operating expenses	5.6	5.0	5.4	5.3	4.6	4.3	6.6	n.a.
Public debt	0.5	0.5	0.5	0.7	0.6	0.6	0.6	n.a.
External debt	0.5	0.5	0.3	0.7	0.4	0.4	0.5	n.a.
Domestic debt	0.0	0.0	0.2	0.0	0.2	0.2	0.1	n.a.
Capital expenditure	1.5	2.5	5.5	2.6	2.8	2.8	2.6	n.a.
Balance (income-expenses)	1.0	1.0	0.3	-1.1	1.3	-0.3	-0.3	n.a.
External sector								
Current account (US$ billion)[d]	-1.0	-1.1	-2.0	-1.3	-1.3	-2.9	n.a.	n.a.
% of GDP	-5.0	-4.8	-8.2	-4.2	-3.5	-7.1	n.a.	n.a.
Goods	0.7	-2.4	1.7	1.8	0.2	2.2	n.a.	n.a.
Exports	32.8	18.5	33.9	30.7	24.0	27.1	n.a.	n.a.
Imports	32.2	21.0	32.1	28.9	23.8	24.9	n.a.	n.a.
Services	-6.1	-4.9	-9.1	-7.0	-5.6	-5.3	n.a.	n.a.
Income	4.0	2.8	1.6	2.4	0.8	0.7	n.a.	n.a.
Expenditure	10.0	7.7	10.6	9.4	6.4	6.0	n.a.	n.a.
Exchange rate (CDF/US$; period average)	559.3	809.8	905.9	919.5	919.8	919.8	925.2	n.a.
Nominal effective exchange rate (CPI-based, index 2010=100)[e]	-10.9	-26.3	-11.6	-5.1	5.3	0.9	1.5	n.a.
Real effective exchange rate (CPI-based, index 2010=100)[e]	-0.3	472.2	-87.9	5.7	12.4	0.3	1.5	n.a.

	2008	2009	2010	2011	2012	2013	2014	2015
External debt (stock)								
CDF billion	6,955	11,254	4,377	4,237	4,521	4,791	4,482	n.a.
US$ billion	10.9	12.5	4.8	4.7	4.9	5.2	4.8	n.a.
% of GDP	59.5	58.9	19.3	14.9	13.5	13.0	13.5	n.a.
Gross official reserves (including gold, US$ million)	78	1,035	1,300	1,268	1,633	1,678	1,557	n.a.
In months of imports of goods and services	0.1	1.6	1.3	1.2	1.6	1.2	1.0	n.a.

n.a. Not available.

a Directorate-General of Customs and Excise (DGDA).
b Directorate-General of Taxation (DGI).
c Income from the Directorate-General of Administrative and Government Property Revenue (DGRAD).
d Provisional for 2013.
e A minus sign (-) indicates depreciation, index (2010 = 100).

Source: Central Bank of the Congo, *Rapport annuels*, 2013 and 2014; IMF, *International Financial Statistics*. Viewed at: http://elibrary-data.imf.org (database accessed in January 2016); World Bank (2015), *World Development Indicators*. Viewed at: http://databank.worldbank.org/data/reports.aspx?source=World%20Development%20Indicators (database accessed in January 2016); and UNDP (2015), *Human Development Report*. Viewed at: http://hdr.undp.org/en/data (database accessed in January 2016).

1.2 Recent economic developments

1.11. Despite the shocks caused by the international financial and economic crisis of 2008-2009, the DRC's macroeconomic situation consolidated during 2010-2015. This was largely thanks to the pursuit of a variety of structural and sectoral reforms implemented in the period 2009-2012, under the auspices of the Government's second-generation economic programme with the IMF and, since 2013, the Government's autonomous economic programme.

1.12. The country has experienced strong economic growth, boosted by the high prices of raw materials such as copper, gold and oil, which stimulated increased production; this led to a record rise in real GDP to 9.6% in 2014 (Table 1.1). Nonetheless, the period under review had begun in 2008 with a collapse of these commodity prices, triggering a reduction in economic growth (in real terms) from 6.2% in 2008 to 2.9% in 2009, followed by a slow recovery to 7.2% in 2012, 8.5% in 2013 and 9.6% in 2014. For 2015, the initial forecasts of 10.2% were downgraded to 7.7%, owing to another fall in commodity prices.

1.13. Growth is based mainly on the primary sector, including mining. Investments in the services sector (transport, telecommunications and trade generally), and also in infrastructure upgrading, have enabled the non-mining private sector to outpace the mining sector in recent years. The shrinkage of production volumes that followed the recent collapse of commodity prices points to a strengthening of this trend. Nonetheless, the recovery of the agricultural sector is slow and weak, and the sector's performance is chaotic owing, among other things, to its low rate of mechanization, which results in poor productivity in many subsectors; a restrictive regime of land tenure (most holdings are unregistered, and there is no official market for land); fragmentation of the domestic market due basically to insufficient infrastructure and the absence of trading hubs, which tends to erode producers' profit margins; the embryonic state of extension services and the lack of a legal framework, which discourages the creation of agricultural associations and cooperatives; and difficult access to credit, which penalizes a sector that badly needs investment in both equipment and biological material (all the stock is old, unproductive and disease-prone). Moreover, import/export procedures are cumbersome and levies are high, further undermining the competitiveness of the agricultural sector, which imports most of its inputs and equipment.

1.14. The economic growth of the last few years, together with the fall in international food prices and relative stability of the Congolese Franc (CDF), made it possible to bring inflation down from over 17.3% in 2008 and 15.3% in 2011 to 1.6% in 2013; accumulate gross international reserves, which stabilized at US$1.56 billion, equivalent to about one month of imports, by end December 2014; and hold the level of external debt to around 13.5% of GDP in 2014 (Table 1.1). The various reforms implemented since 2009 contributed to this performance.

1.15. As price and exchange-rate stability are the key objectives of the monetary policy implemented by the Central Bank of the Congo (BCC) (Section 4), the main instruments of this policy (interest rates on refinancing operations, Treasury bill auctions and required reserves) have also been used to enhance macroeconomic stability.[8] The foreign exchange market has also been normalized through prudent monetary management and measures to strengthen the financial sector. Since completion of the IMF programme, the Government has continued to consolidate international reserves and reduce inflation unaided, making it possible to stabilize the franc, accumulate international reserves, and bring consumer price inflation down from 9.7% in 2012 to 1.03% in 2014, its lowest level in 50 years (Table 1.1). The authorities see inflation remaining within the BCC's target range of 1% to 3.5% in the short term.

1.16. Financial instruments, such as credit guarantee and leasing programs are not yet operating in the DRC, even though access to credit is the main challenge faced by Congolese entrepreneurs, and thus for job creation (Section 4). Law No. 15/003 of 12 February 2015 on leasing, which organizes this activity, could improve business financing possibilities.

1.17. On the budgetary front, excessive reliance on the mining and quarrying sector (over 75% of budget income) leaves the country exposed to exogenous shocks of the type experienced in 2009. The sudden collapse in commodity prices (copper, gold and oil) between 2008 and 2009 and since 2013, even in the context of a budget austerity policy, turned the global budget balance and its earlier-year surpluses (2010 and 2011) into deficits in 2011, 2013 and 2014 (Table 1.1).

1.18. The tax system has undergone major changes since the last review of the country's trade policy, as a result of the introduction of value added tax (VAT) to replace the previous turnover tax. New Customs and Excise codes were also enacted and have been in force since 2012.[9] Although fiscal reforms have been implemented, including the elimination of certain levies, the current system still involves a multitude of taxes, including customs duties (Section 3.1.5); VAT (Section 3.1.5.1); excise duty (Section 3.1.5.1); personal income tax (IRPP); corporation tax; registration and stamp duties, which are imposed on real estate transactions; local taxes; and other levies on specific products, transport, telecommunications, and so forth. In practice, multiple exemptions alleviate the overall tax burden to some degree, which explains why the 2015 tax burden was 15.4% of GDP, despite a corporate tax rate that is already at a level of 30%.

1.3 Trade in goods and services

1.19. The DRC continues to post trade and current transfers surpluses, but it remains prone to external shocks. The generally rising deficits in the service accounts, together with the equally large shortfall on the income account, have generated current-account deficits throughout the review period. The collapse of mineral prices and the knock-on effect on mining revenues generated the trade deficit in 2009, which underscores the need to diversify the economy and promote exports, including services (Table 1.2). Moreover, the trade surplus is likely to be heavily eroded in the medium term by the expected collapse in commodity prices. Nonetheless, having recorded a deficit of 9.1% of GDP in 2010, aggravated by the effects of the international financial crisis of 2008-2009, the DRC's balance of payments recovered to post surpluses until 2014. Since 2011, strong performance by the capital and financial account explain this result (Table 1.2).

1.20. In the trade domain, after the weakening of raw materials prices in 2009, goods trade volumes rebounded in 2010, with significant growth in both exports and imports of 94.0% and 62.5%, respectively (Tables A1.1 and A1.2). The global value of trade continued to rise between 2010 and 2014, regularly generating a surplus, thanks mainly to the increase in copper exports to emerging countries.

[8] Apart from its chief objective of ensuring the stability of prices and the national currency, the BCC is tasked with: managing official reserves; regulating foreign exchange transactions; participating in the negotiation of international agreements on payment modalities; regulating and controlling credit institutions and financial intermediaries; and promoting the good functioning of the money and capital markets. Law No. 005/2002 of 7 May 2002 on the establishment, organization and functioning of the Central Bank of the Congo.

[9] Ordinance-Law No.10/001 of 20 August 2010 establishing value added tax (VAT); Ordinance-Law No. 007/2012 of 21 September 2012 on the Excise Code; Ordinance-Law No. 011/2012 of 21 September 2012 on the Tariff of Import Duties and Taxes; and Ordinance-Law No. 012/2012 of 21 September 2012 on the Tariff of Export Duties and Taxes.

1.21. The DRC's trade structure has not undergone any significant changes since the country's previous trade policy review (Tables A1.1 and A1.2, and Chart 1.2). Nonetheless, the share of imports of goods and services in GDP shrank by 11 percentage points, from 42.3% in 2008 to 30.9% in 2013, while the share of exports dropped by about 9 points from 36.9% to 27.8% in the same period. Goods and services trade posted a deficit averaging 6.1% of GDP per year for the period (Tables 1.1 and 1.2).

1.22. Total merchandise exports were estimated at US$7.5 billion in 2014, compared to US$3,765 million in 2008, mainly owing to the rise in commodity prices on world markets (mining products in particular) and their increased production in the DRC. A doubling of export values enabled the country to generate a trade surplus of around US$718.9 million in 2013, compared to a deficit of US$144 million in 2008 (Chart 1.2, and Tables 1.2 and A1.1).

Table 1.2 Balance of payments, 2008-2013

(US$ million)

	2008	2009	2010	2011	2012	2013[a]
A. Current account	**-1,050**	**-1,123**	**-2,042**	**-1,281**	**-1,261**	**-2,864**
A1. Goods and services	-1,128	-1,745	-1,839	-1,594	-1,978	-1,242
Exports	7,698	5,021	8,867	10,211	9,031	11,176
Goods	6,870	4,371	8,478	9,472	8,743	10,905
Services	828	650	389	739	288	271
Imports	8,825	6,766	10,705	11,805	11,009	12,419
Goods	6,726	4,949	8,043	8,916	8,677	10,006
Services	2,100	1,817	2,663	2,889	2,332	2,413
A2. Income	-918	-779	-1,046	-1,098	-1,048	-2,838
Credit	18	26	48	168	18	49
Compensation of employees	15	20	16	115	12	33
Investment income	3	7	33	54	6	16
Debit	936	805	1,095	1,266	1,066	2,887
Compensation of employees	37	31	57	40	55	36
Investment income	898	774	1,037	1,227	1,011	2,851
A3. Current transfers	996	1,401	843	1,411	1,765	1,217
Credit	1,738	1,704	1,688	2,430	2,710	2,327
Public transfers	1,243	1,386	907	1,418	1,866	1,401
Private transfers	495	318	782	1,013	844	927
Debit	743	303	845	1,020	945	1,111
Public transfers	203	76	213	247	330	319
Private transfers	540	227	633	773	614	792
B. Capital and financial account	**402**	**458**	**678**	**1,326**	**1,832**	**2,935**
Capital account	110	144	158	933	486	153
Financial transactions	292	314	839	393	1,345	2,781
Direct investment	1,673	629	2,932	1,596	2,892	1,698
Portfolio investment	-1,575	-1,189	-3,237	-2,137	-3,532	-4
Other investment	194	874	1,144	934	1,986	1,088
C. Errors and omissions	**16**	**-247**	**166**	**30**	**30**	**-5**
D. Overall balance	**-632**	**-912**	**-1,198**	**75**	**601**	**67**

a Provisional.

Note: According to the fifth edition of the IMF *Balance of Payments Manual* (BOP5).

Source: Central Bank of the Congo (2013), *Rapport annuel*.

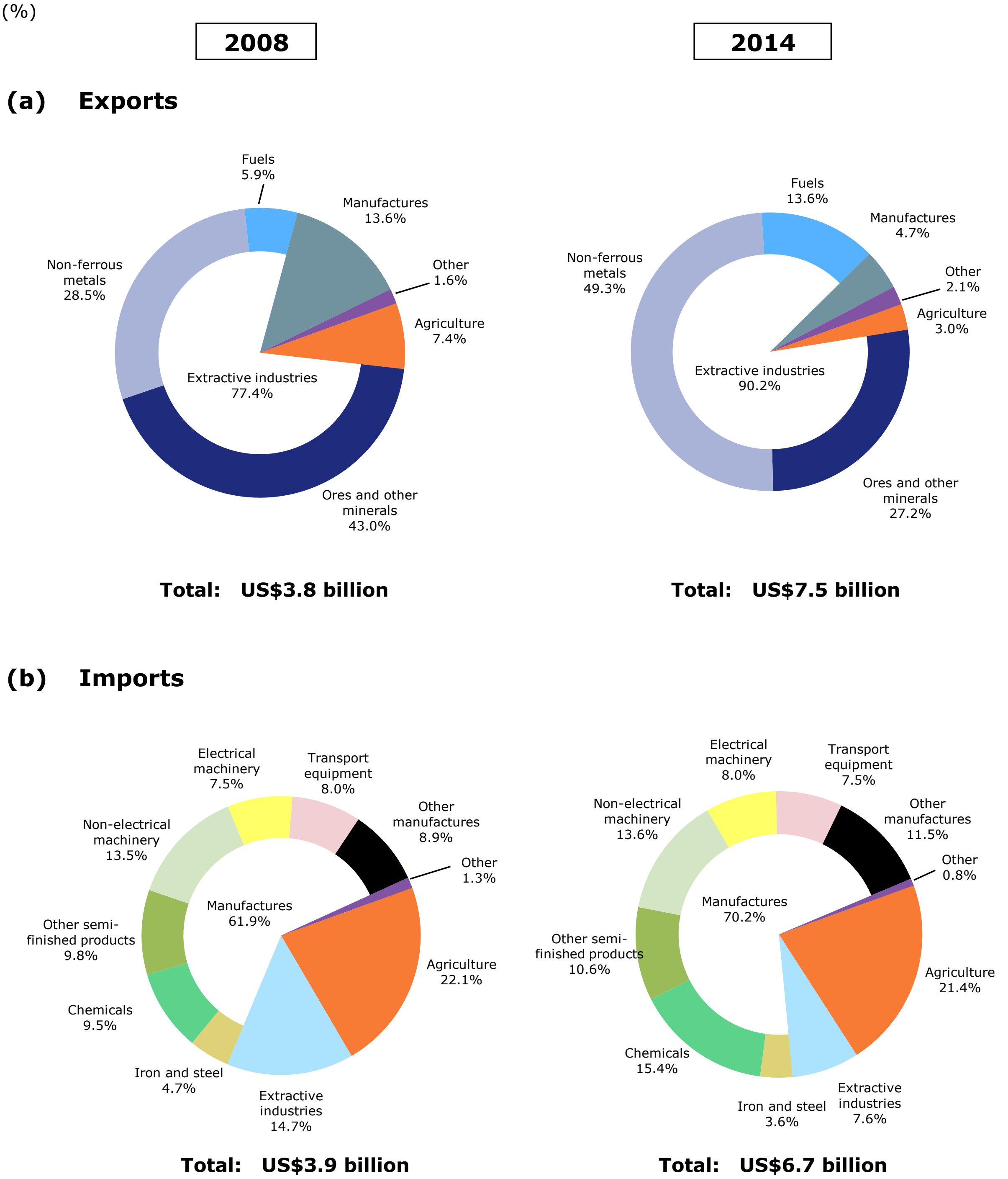
1.23. The DRC continues to rely on mining exports. Mining and quarrying accounted for 90.2% of total exports in 2014 compared to 77.4% in 2008, over half of this consisting of ferrous and non-ferrous metals (Chart 1.2 and Table A1.1). The DRC's main export markets are China (37.6% of the total in 2014 compared to 42.1% in 2008); followed by the European Union (19.6% in 2014 as against 29.6% in 2008); and Zambia (19.5% in 2014 up from 14.2% in 2008). The DRC exports little to other African countries (4.4% in 2014 compared to 2.2% in 2008). In contrast, the Middle East share has grown significantly to represent 6.0% of total exports in 2014 compared to just 0.1% in 2008 (Chart 1.3 and Table A1.3).

1.24. The DRC's imports are mainly manufactures (70.2% of the total in 2014, compared to 61.9% in 2008), followed by agricultural products (21.4% in 2014 and 22.1% in 2008). Other imports include chemicals, machinery and transport equipment, as well as non-electrical machinery (Chart 1.2). Africa, particularly Zambia and South Africa, followed by Europe and China, were the country's leading import sources in 2014 (Chart 1.3 and Table A1.4).

1.25. The services sector, in which the DRC is a net importer, is dominated by transport and telecommunications. Imports of tradable services have fluctuated around US$2 billion every year since 2008, while the corresponding exports have declined continuously from US$828 million in 2008 to US$271 million in 2013. Government services account for a large proportion of these imports and exports (Chart 1.4).

Chart 1.2 Structure of merchandise trade, 2008 and 2014

(%)



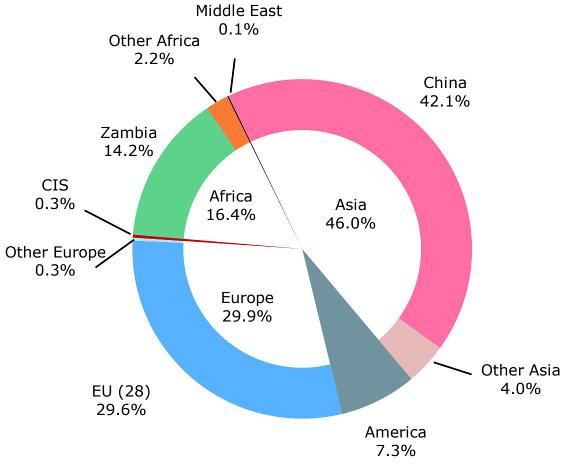
Source: WTO Secretariat calculations, in mirror statistics, based on the UNSD Comtrade database (SITC Rev.3).

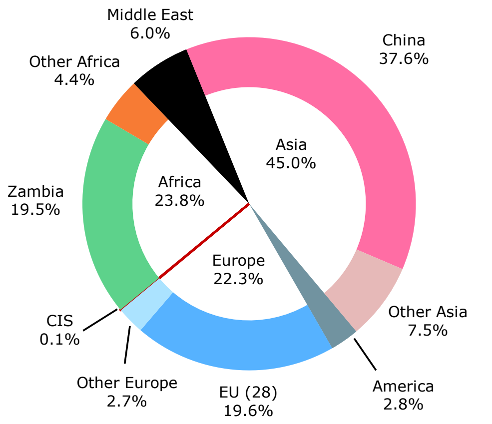
Chart 1.3 Direction of merchandise trade, 2008 and 2014

(%)

2008 | **2014**

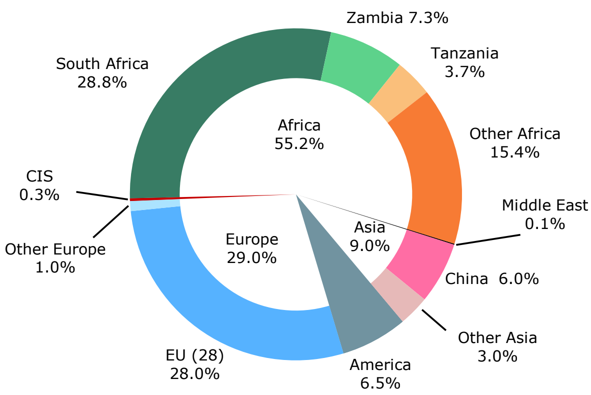
(a) Exports

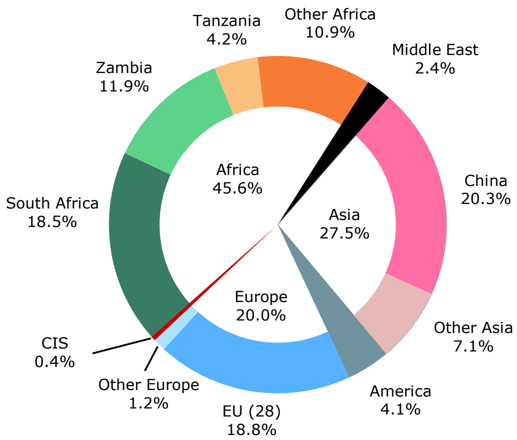




Total: US$3.8 billion | **Total: US$7.5 billion**

(b) Imports



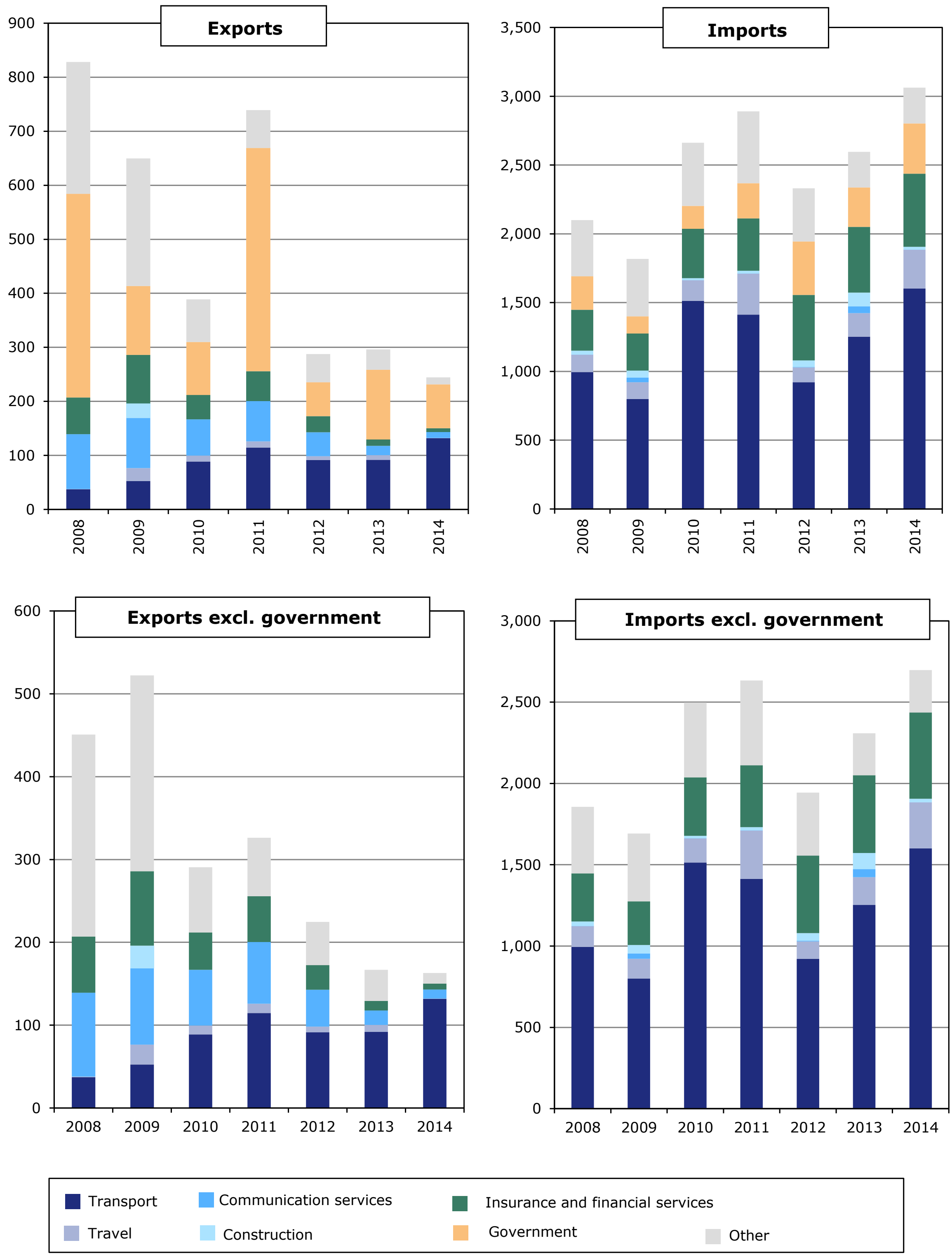


Total: US$3.9 billion | **Total: US$6.7 billion**

Source: WTO Secretariat calculations, in mirror statistics, based on the UNSD Comtrade database (SITC Rev.3).

Chart 1.4 Trade in services, 2008-2014

(US$ million)



Source: WTO Secretariat calculations based on data from the WTO Statistics Database. Viewed at: http://stat.wto.org/Home/WSDBHome.aspx?Language=E.

1.4 Investment

1.26. Despite legislative changes and efforts to consolidate its business environment (Section 2) the DRC attracts very little foreign direct investment (FDI). Inflows peaked at US$3,312 million in 2012 before dropping to US$2,098 million in 2013 and to US$2,063 million in 2014 – a level similar to that recorded the previous year. Most FDI is channelled into the mining and mobile telephony industries.[10]

1.5 Economic outlook

1.27. For 2015, the persistent weakness of commodity prices (copper, gold, oil per barrel), has curbed the DRC's economic growth to around 7.5%, well below the 10.26% rate that had originally been projected before being revised downwards.[11] The 2015 budget forecasts a zero deficit, which suggests that certain public expenses will likely be cut.

1.28. The current account of the balance of payments is set to deteriorate, owing to burgeoning imports linked to investment projects and reduced export earnings as a result of the fall in oil prices. Already in 2014, the external current account, which had been in surplus since 2010, posted a deficit estimated at 0.8% of GDP, owing to weakness in the per-barrel price of crude - and faltering production.

1.29. Despite essentially favourable prospects, the DRC's reliance on mining and oil revenues on the one hand, and imported consumer goods on the other, renders its economy highly vulnerable to external shocks; hence the need for structural reforms to promote economic diversification. The medium-term growth rate will depend on these structural reforms aimed at bolstering the business environment and reducing obstacles to expanding the supply of goods and services, among other constraints.

[10] UNCTAD (2015).

[11] In the recent Finance Law, the forecast is based on an optimistic hypothesis for commodity prices: copper US$6,000/tonne; gold US$35,000/kg; and oil at US$40 per barrel, compared to US$81 initially.

2 TRADE AND INVESTMENT REGIME

2.1 Overview

2.1. Since its preceding Trade Policy Review (TPR) in 2010[1] the Democratic Republic of the Congo (DRC) has made no substantial changes to its general business framework. The 2006 Constitution as amended in 2011, the seventh since independence, is still in force.[2]

2.2. Under the Constitution, the President of the Republic is the Head of State. He is elected by direct universal suffrage for a five-year term of office renewable for one further term. He promulgates laws and may issue decisions by ordinance. The President appoints the Prime Minister from the parliamentary majority and, on the latter's proposal, the other members of the government. He invests the elected provincial Governors and Deputy Governors by ordinance.

2.3. The Parliament is bicameral, comprising the National Assembly (500 members elected by direct universal suffrage for a renewable term of five years) and the Senate (108 Senators elected by the provincial assemblies for a renewable term of five years). The most recent parliamentary elections were held in December 2011, and senatorial elections in February 2007. Under the Constitution, the power to initiate legislation rests with the President, the Government, and with deputies and parliamentary groups. Draft laws are prepared by the relevant ministries, and must be approved by the Council of Ministers before they are submitted to the National Assembly. Once adopted and voted on by Parliament, a draft law becomes law after its promulgation by the Head of State within 30 days and publication in the Official Journal.[3] The ratification of international agreements, including trade agreements, must be authorized by Parliament by means of laws.

2.4. The Constitution provides for the separation of powers. Executive power is vested in the President of the Republic and the Government; legislative power belongs to Parliament; and judicial power is exercised by the Constitutional Court, the Supreme Court, the Courts of Appeal and other national courts. The legal aspects of commercial matters are dealt with at national level, except where a remedy is sought under the OHADA Uniform Act on Arbitration[4], more specifically from the Common Court of Justice and Arbitration. At the domestic level, trade disputes are handled by the commercial courts, which are now being set up throughout the country.

2.5. The design and implementation of trade policy falls under the Ministry responsible for trade, which deals with issues relating to the DRC's participation in the WTO and in regional, subregional and bilateral trade institutions. A Ministry representative chairs the National Development and Trade Policy Forum (FNDPC). Despite being covered by the state budget, the funding of the Forum is the greatest problem.

2.6. Other ministries and institutions are also involved in trade policy formulation and implementation, including the Ministry of Finance (tax matters), the Ministry of the Economy (price setting matters), the Ministry of Health (human health), the Ministry of the Status of Women and the Family (gender issues), the Ministry of Planning (which centralizes and coordinates all national macroeconomic programmes), the Ministry responsible for justice, the Ministry of the Environment, Nature Conservation, Water and Forests, the Ministry of Scientific and Technological Research, the Ministries responsible for foreign affairs and international cooperation, agriculture, industry, tourism, and transport (sectoral issues), as well as certain services attached to the Offices of the Prime Minister and the President, each in their own specific area. This leads to certain functions being split up and undermines the effectiveness of State action by giving rise to numerous jurisdictional disputes and substantial additional costs. In addition, the legislative and regulatory framework for trade policies is characterized by the adoption of various laws and regulations by

[1] WTO document WT/TPR/S/240/Rev.1 of 29 March 2011.

[2] The first Constitution dates from 19 May 1960; the second from 1 August 1964; the third from 24 June 1967; the fourth from April 1994; the fifth from 27 May 1997; the sixth from 4 April 2003; and the seventh, dated 18 February 2006, as amended in 2011, is still in force.

[3] Organic laws may not be promulgated until they have been declared to be in conformity with the Constitution by the Constitutional Court.

[4] Through Law No. 10/002 of 11 February 2010 the DRC acceded to the Treaty on the Harmonization of Business Law in Africa (OHADA Treaty) but has not yet adopted implementing legislation at the domestic level. It should be noted that the OHADA Uniform Act on Arbitration, which was adopted on 11 July 1999 and supposed to take effect 90 days later (Article 9 of the Treaty), is not yet being applied in the DRC.

the central government and by decentralized administrative entities, without any harmonization or arrangements for their evaluation.

2.7. The private sector, in this case the Federation of Congolese Enterprises (FEC), the Confederation of Small and Medium-sized Enterprises of the Congo (COPEMECO) and the National Federation of Congolese Artisans and Small and Medium-sized Enterprises (FENAPEC), as well as civil society associations and NGOs, is also consulted on an ad hoc basis about trade policy, and participates by invitation in the National Trade and Multilateral Negotiations Monitoring and Coordination Committee in particular.[5] Apart from the Legislature and the Court of Auditors, there is no national body responsible for evaluating the trade policy of the DRC. The Economic and Social Council, created by Decree No. 11/48 of 3 December 2011 and set up in 2015, should provide a framework for coordination with development partners, namely the unions, civil society and the private sector.[6]

2.8. Trade policy is formulated and implemented by means of legal instruments such as laws, decrees and treaties (Table 2.1). The hierarchy of laws follows the monist system under which treaties and international agreements, once ratified, take precedence over laws, subject, with respect to each individual agreement or treaty, to its being applied by the other party, except in the case of human rights treaties.[7] The Constitution prevails over all domestic legal instruments. Below the Constitution come the components of the legislative bloc, namely (in order) laws (both organic and ordinary), ordinance-laws, edicts or provincial laws; these are followed by the components of the regulatory bloc, namely ordinances, decrees, orders, administrative regulations, circulars, instructions, directives, decisions; and finally, the customary realm. International treaties and agreements are signed by the President or by a Minister to whom such powers have been delegated. Once signed, they must be brought before Parliament for ratification.

2.9. The rules relating to the following areas are established by law: commerce; privatization/nationalization of companies; status of foreign nationals and immigration; tax base, rates and collection procedures for taxes of all kinds; fundamental principles of civil and commercial rights and obligations. The main trade-related legal instruments are listed in Table 2.1.

Table 2.1 Main trade related laws in force or under review, March 2016

Instrument	Entry into force
General area	
Ratification of the Marrakesh Agreement establishing the WTO by Decree No. 5/194 of 26 September 1995	1 January 1997
Constitutional law	18 February 2006
Trade law	
Law No. 73/009 on trade	5 January 1973
Ordinance No. 73-236 establishing the national tax identity number	13 August 1973
Ordinance-Law No. 79-021 on regulations governing small-scale trade	2 August 1979
Law No. 002/2001 on commercial courts	3 July 2001
Decree-Law No. 011/37 of 11 October 2011 amending Decrees Nos. 79-021 of 2 August 1979 and 90-046 of 8 August 1990 which prohibit foreign investors from entering the retail trade	
Presidential Decree No. 008/01 of 23 February 2001 establishing the Permanent Economic Coordination Framework (CPCE)	
Trade	
Law No. 73-009 on trade	5 January 1973
Law No. 74-014	10 July 1974
Ordinance-Law No. 80-010	30 July 1980
Congolese Control Office	
Ordinance-Law No. 74-013	10 July 1974
Decree No. 09/42 on the rules governing the Congolese Control Office (OCC)	3 December 2009
Taxation	
Law No. 009/03 on the Customs Valuation of Goods	18 March 2003
Customs Code	28 February 2010
Ordinance-Law No. 011/2012 of 21 September 2012 establishing the Tariff of Import Duties and Taxes	

[5] Presidential Decree No. 008/01 of 23 February 2001 establishing the Permanent Economic Coordination Framework (CPCE).
[6] The role of the Economic and Social Council is to provide advisory opinions on the economic and social questions referred to it by the President of the Republic, the National Assembly, the Senate or the Government.
[7] Article 215 of the Constitution.

Instrument	Entry into force
Ordinance-Law No. 012/2012 of 21 September 2012 establishing the Tariff of Export Duties and Taxes	
Decree-Law No. 086 on the tax regime for SMEs	10 July 1998
Tax Code	30 September 2003
Decree No. 04/099 amending and supplementing Decree No. 017/2003 of 2 March 2003 establishing the Directorate-General of Taxation	30 December 2004
Ordinance-Law No. 10/001 of 20 August 2010 establishing value added tax (VAT)	
Ordinance-Law No. 007/2012 of 21 September 2012 on the Excise Code	
Ministerial Order No. 072 of 30 December 2011 on provisional measures to suspend the collection of value added tax at importation on goods imported by petroleum producing enterprises and mining enterprises operating under a contractual regime	
Tax Code, updated on 15 July 2014	
Standards and technical regulations	
Ministerial Order No. 1250/CAB/MIN/SP/008/CJ/OMP/2013 of 16 July 2013 amending and supplementing Ministerial Order No. 1250/CAB/MIN/S/CJ/KIZ/56/2003 of 16 May 2003 regulating cosmetic products and other toiletries; Order No. 1250/CAB/SP/008/CPH/OBF2015 of 18 September 2015 regulating trade in pharmaceutical products in the DRC	
Ministerial Order No. 012/CAB/MINECI/2001 of 31 March 2001 on approval of standards for wheat flour	
Price regulation	
Interministerial Orders Nos. 06/CAB/MIN-ECO&COM/2012 and 08/CAB/MIN/HYDRO/2012 determining the components of petroleum product price structure	14 December 2012
Interministerial Order No. 05/CAB/MIN/FINANCES/2012 of 14 December 2012 establishing the procedures for reviewing the structure of ground and aviation fuel prices	
Orders Nos. 410/CAB/SG/TC/950/96 of 4 December 1996 and 409/CAB/MIN/TVC/082/2009 of 3 December 2009, and Decisions Nos. RVA/DG/12.00/00476/91.A and 00477/91.A of 1 November 1991 setting the rates for aviation and non-aviation charges applicable to domestic and international traffic in the DRC	
Competition and consumer protection	
Ordinance-Law No. 41-63 of 24 February 1950 on unfair competition Decree-Law of 20 March 1961 on pricing	
Ministerial Order No. DENI/CAB/06/013/87 of 26 May 1987 on the establishment and functioning of the Competition Commission	
Intellectual property	
Ordinance-Law No. 86-033 on protection of copyright and related rights	5 April 1986
Law No. 82-001 on industrial property	7 January 1982
Government procurement	
Law No. 10/010 of 27 April 2010 on government procurement	27 April 2010
Investment and business climate	
Law No. 004/2002 of 21 February 2002 on the Investment Code	21 February 2002
Decree No. 065/2002 on the regulations, organization and methods of operation of the National Investment Promotion Agency (ANAPI)	5 June 2002
Decree No. 09/31 of 8 August 2009, as amended and supplemented by Decree No. 10/28 of 30 August 2010 on the Steering Committee for the improvement of the business and investment climate in the DRC	
Law No. 015/2002 on the Labour Code	16 October 2002
Law No. 016/2002 on the establishment, organization and operation of the labour courts	16 October 2002
Mining and hydrocarbons	
Ordinance-Law No. 81-013 on general legislation on mining and hydrocarbons	2 April 1981
Law No. 007/2002 of 11 July 2002 on the Mining Code	11 July 2002
Decree No. 038/2003 containing the mining regulations	26 March 2003
Law No. 08/001 repealing Law No. 86/007 of 27 December 1986 on residence and movement of aliens in mining areas	26 March 2008
Law No. 15/012 of 1 August 2015 on the general hydrocarbons regime – Hydrocarbons Code	
Forests	
Law No. 011/2002 of 29 August 2002 on the Forest Code	29 August 2002
Decree No. 08/09 laying down the procedure for the award of concessions	8 April 2008
Decree No. 08/08 laying down the procedure for the listing and de-listing of forests	8 April 2008
Ministerial Order No. 011/CAB/MIN/ECN-EF/2007 on regulations governing the authorization of industrial harvesting of wood for lumber and authorizations to purchase, sell and export lumber	12 April 2007
Telecommunications and information technology	
Framework Law No. 013/2002 of 16 October 2002 on telecommunications in the DRC	16 October 2002
Banking/foreign exchange	
Foreign exchange regulations issued by the Central Bank of the Congo (BCC) on 28 March 2014	
Decree-Law No. 004 on transactions in the national currency and in foreign currencies in the DRC	31 January 2001
Law No. 022/2002 on the special regime governing the restructuring of credit institutions	30 October 2002
State-owned enterprises	
Law No. 08/007 on general provisions concerning the conversion of State-owned enterprises	7 July 2008
Law No. 08/008 on general provisions concerning the withdrawal of the State from State-owned enterprises	7 July 2008

Instrument	Entry into force
Law No. 08/009 on general provisions applicable to public institutions	7 July 2008
Law No. 08/010 establishing the rules governing the organization and management of State-owned enterprises	7 July 2008
Insurance and pension funds	
Law No. 15/005 of 17 March 2015 on the Insurance Code was adopted and promulgated and took effect in March 2016	1 March 2016
Law No. 15/003 of 12 February 2015 on leasing	
Electricity	
Law No. 14/011 of 17 June 2014 on the electricity sector in the DRC	
Agriculture	
Law No. 11/02 of 24 December 2011 on the fundamental principles relating to agriculture – Agricultural Code	
Single window	
Prime Ministerial Decree No. 04/18 of 11 April 2011 on the manual of transitional harmonized procedures applicable to the Single Window for merchandise imports, Annex XI of Volume I, laying down the pre-clearance import modalities and procedures, securing of revenue during the customs clearance process	
Transport	
Law No. 10-014 of 31 December 2010 on civil aviation	

Source: Information supplied by the authorities of the Democratic Republic of the Congo.

2.2 Trade policy objectives

2.10. In 2013 the DRC began developing its National Trade Strategy Paper (DNSC) with a view to identifying approaches and options for promoting trade development, in the light of domestic and foreign challenges, including those inherent in globalization, more specifically integration into global value chains and the regional economy. According to the authorities, the Government's trade policy vision for the coming years will be to develop an enabling economic environment in which domestic and foreign trade will thrive unhindered. This will entail opening up the national territory, integrating the different sectors of the domestic economy and strengthening links to regional and international trade channels. The DRC will therefore strive to finalize and adopt its National Trade Strategy Paper in the near future and will ensure that it is disseminated and implemented.

2.11. The trade policy of the DRC is based on regulations established at supranational level (the result of multilateral, regional and subregional integration), and on national regulations which complement the supranational provisions and deal with all the aspects that lie outside their scope. The ultimate aim of the DRC's trade policy is for trade to contribute to poverty reduction by further liberalizing the trade regime, diversifying exports; continuing the privatization programme and sectoral reforms (in agriculture, mining, industry and services); and through trade facilitation. The primary aim of some of these initiatives is to improve the competitiveness of local goods and services in order to speed up growth.

2.12. The planned actions should come within the broader context of the new government programme, the Strategic National Development Plan for the DRC put forward by the Office of the President of the Republic on 22 February 2016. This new plan sets the goal of modernizing and industrializing the country by 2035 by developing a reinvigorated, competitive private sector capable of generating employment and helping to reduce poverty. Specifically, the plan aims to transform the DRC into a pool of intelligence and expertise; a wellspring of new citizenship and the middle class; a breadbasket; a major energy player; an economic and industrial pool; a land of peace and well-being; and a regional power at the heart of Africa.

2.3 Trade agreements and arrangements

2.3.1 World Trade Organization (WTO)

2.13. The DRC has been an original member of the WTO since 1 January 1997.[8] Between 2010 and 2013 the Republic has been subject to "administrative measures" regarding sanctions against countries that have remained in arrears in the payment of their contributions, and this has limited

[8] The Congo inherited the status of contracting party on 3 May 1963 (Article XXVI:5(c) of the GATT 1994) after applying the GATT de facto since 11 September 1971. The DRC ratified the Marrakesh Agreement Establishing the WTO through Decree No. 5/194 of 26 September 1995.

its participation in WTO decision-making bodies.[9] Although the DRC has cleared its arrears in contributions, its participation in WTO activities remains limited. The DRC accords at least MFN treatment to all its trading partners.

2.14. The DRC is not party to any of the plurilateral agreements concluded under WTO auspices. It did not participate in the WTO negotiations on basic telecommunications, or in those relating to financial services. Despite having been active during the negotiations of the Trade Facilitation Agreement, the country has so far neither ratified this agreement nor notified its commitments.

2.15. As pertains to trade-related technical assistance, the WTO has organized three national technical cooperation activities in the DRC since the previous TPR in 2010.[10] The WTO has also invited the DRC to participate in regional activities (41) in Africa and in global activities (72) at its headquarters in Geneva, in which 43 and 21 Congolese officials took part, respectively. In addition, a substantial number of officials from the DRC (436 out of a total of 799 Congolese enrolled) have also successfully completed e-learning courses on the WTO in several fields during the review period, representing a success rate of 55%. Table 2.2 below provides a year-by-year summary of DRC participation in non-national WTO technical cooperation activities.[11]

Table 2.2 DRC participation in non-national WTO technical cooperation activities, 2010-2015

Year	Regional activities in Africa		Global activities in Geneva		E-learning		
	Activities	Participants	Activities	Participants	Number of courses	Participants	Successful participants
2010	13	13	7	7	4	35	28
2011	6	16	11	5	14	152	79
2012	4	1	4	2	7	63	29
2013	5	5	7	2	14	130	66
2014	4	4	24	2	53	225	110
2015	9	4	19	3	66	194	123
Total	41	43	72	21	158	799	436

Source: WTO Institute for Training and Technical Cooperation Database.

2.16. The DRC is experiencing difficulties with regard to WTO notifications. With just one notification to its name since its previous review in 2010 and a total of ten since its accession to the WTO, the DRC has one of the lowest numbers of notifications by Members. Consequently, the country's trade policy remains something of an unknown quantity to the WTO Membership. Technical assistance is requested to enable the DRC to fulfil its notification obligations more effectively.

2.17. According to the authorities, the issues of greatest concern in the DRC in terms of implementation of the Agreements are those relating to notifications, technical barriers to trade (TBT), sanitary and phytosanitary measures (SPS), and copyright and related rights. The DRC would like some capacity building to bring its sanitary and phytosanitary (SPS) measures regime into line with the relevant WTO provisions. The country intends to establish a national framework for standardization and a quality control system to improve access to regional and international markets for its exports. According to the authorities, the DRC also wishes to receive WTO technical assistance in the following areas: General Agreement on Trade in Services (GATS), rules of origin, trade statistics, Government Procurement Agreement (GPA), public-private partnership, export promotion (see ITC), Agreement on Agriculture, intellectual property, regional trade agreements, trade facilitation, IP/health (trade-related aspects), TBT, SPS, academic support, and outreach activities.

[9] In 2010, the DRC accepted a payment plan that rescheduled its arrears over several years. The penalties resulted from the DRC's failure to abide by that plan. WTO (2011).

[10] The topics covered were notifications, the Doha negotiations, and trade facilitation. The DRC has also seen the establishment of reference centres and national enquiry points under the WTO-International Organisation of la Francophonie (OIF) partnership and two missions in connection with this TPR.

[11] Global Trade-Related Technical Assistance Database (GTAD). Viewed at: http://gtad.wto.org/index.aspx?lg=fr.

2.3.2 Other trade agreements and arrangements

2.18. The European Union is one of the DRC's major trading partners, in terms of both imports and exports of goods and services (Section 1). Along with the other ECCAS countries, the DRC is participating in the negotiation of the Economic Partnership Agreement (EPA) between the ACP States and the European Union.

2.19. The DRC benefits from the trade preferences of other developed countries in accordance with their national preference schemes, including the Generalized System of Preferences. The DRC has been eligible for the United States' African Growth and Opportunity Act (AGOA, Public Law 106 of 18 May 2000) since 2004.

2.20. The DRC is a member of the following regional and subregional organizations: the African Union, the African Economic Community, and the Community of the Great Lakes Countries (CPGL). The country also belongs to three of the eight Regional Economic Communities (RECs) recognized by the African Union, namely the Economic Community of Central African States (ECCAS), the Common Market for Eastern and Southern Africa (COMESA) and the Southern African Development Community (SADC). The DRC is engaged in the tripartite negotiations aimed at harmonizing the rules of the East African Community (EAC), COMESA and the SADC. The DRC currently accords no preferences but is preparing to grant tariff preferences to the other COMESA members after the progressive dismantling of tariffs over three years. The DRC has also concluded framework trade facilitation agreements with several countries.

2.4 Investment regime

2.21. The regulatory framework for investment has not changed significantly since the previous review of the DRC's trade policy. The 2002 Investment Code is still the basic law applicable to foreign investment and to private investment in general in the country.[12]

2.22. The formulation of national investment policy is a matter for the Ministry of Planning.[13] The aims of the DRC's investment policy include the improvement of infrastructure, the establishment of a sound industrial base and the development of natural resources. The National Investment Promotion Agency (ANAPI) is responsible for the implementation of government investment policy and follow-up with the enterprises and national authorities concerned by the incentive measures taken.[14]

2.23. The Investment Code defines the overall framework and the guarantees given to investors in the DRC. It provides for a single regime, the general regime, alongside special provisions for SMEs.[15] The Code applies to all enterprises that intend to develop an economic activity in the DRC, with the exception of activities relating to mining and hydrocarbons, banking, insurance and reinsurance, defence and arms, as well as certain commercial activities. Investment in those sectors is governed by specific regulatory frameworks and special laws (Table 2.3, and Section 4). Equal treatment of domestic and foreign investors is guaranteed.

2.24. The Code generally applies primarily to value added activities. However, some goods or services provided under a State monopoly (water, electricity, postal services and fixed telecommunications) (Sections 3 and 4) are not open to private investment. Moreover, on-the-shelf retail trading, traditional crafts, small public transport enterprises, bread-making,

[12] Law No. 004/2002 of 21 February 2002 on the Investment Code.

[13] Pursuant to Ordinance No. 15/015 of 21 March 2015 laying down the functions of Ministries.

[14] The National Investment Promotion Agency (ANAPI) was established under Law No. 004/2002 of 21 February 2002 on the Investment Code. Decree No. 08/082009 of 8 August 2009 laid down provisions on its regulations, organization and methods of operation.

[15] To qualify under the general regime, investors must be an economic entity established under Congolese law, be respectful of the environment and nature, provide training to Congolese staff, guarantee a ratio of value added of at least 35%, and investments must be for a minimum sum of US$200,000 for large companies and US$10,000 for SMEs. Filing fees are US$1,000 for large companies and US$500 for small and medium-sized enterprises (SMEs).

establishments providing light meals and refreshments, and hotel services (fewer than ten beds) and urban transport are reserved for Congolese nationals.[16]

2.25. In addition to the various guarantees (including non-discrimination, freedom of movement and the free transfer of earnings), newly created companies engaging in one of the eligible activities may benefit from customs, tax and land-related measures envisaged under the different codes.

2.26. The 2002 Investment Code provides a number of fiscal, customs and general measures intended to attract direct investment.[17] Customs concessions consist in exemption from import duties and taxes on new equipment, machinery and tools and original spare parts where the value of such equipment does not exceed 10% of its customs value. Imports of second-hand heavy vehicles, vessels and aircraft are admitted fully exempt. Similarly, exports of all or part of finished products that are worked or semi-worked so as to impact favourably on the balance of payments are exempt from export duties and taxes. Under the exemptions regime, capital and imported equipment must not leave the territory of the DRC for a minimum of five years.[18] An administrative fee of 2% is nevertheless levied on the c.i.f. value of imports exempt from duties and taxes.

2.27. Companies approved under the Investment Code are also exempt from the business tax on income for profits resulting from a new investment; from the property tax for areas used solely for the investment project; from the proportional charge for public limited companies when they are set up or their capital is increased; and for companies other than public limited companies, from the fixed charge of US$175 or US$800 payable on initial capital.

2.28. To be eligible for the preferential regime, investors must submit an application for approval to the ANAPI. Approval is given by interministerial order after the ANAPI has examined the file. The term of the preferential regime depends on the "economic region" (geographic location of the investment) and it is not renewable. It is three years for economic region A (city of Kinshasa); four years for economic region B (cities of Lubumbashi, Likasi and Kolwezi, and Kongo-Central province); and five years for economic region C (all other locations in the DRC).

2.29. In addition to the Investment Code, there are other specific codes and specific laws in the DRC governing investment in sectors such as mining, agriculture including forestry, energy and hydrocarbons, banking and insurance (Table 2.3).[19]

2.30. In the mining sector in particular, the Mining Code provides for a preferential customs and fiscal regime (Table 2.3). This applies to all holders of mining or quarrying licences, to affiliated companies engaged in mining activities, and to subcontractors engaged in mining activities that are exclusively covered by a contract signed with the holder of the mining licence.

2.31. Before work commences, the holder of the mining licence must submit a list showing the number and value of movable property, vehicles, equipment and other inputs falling within the scope of the preferential regime. This list must be approved in a joint order from the Ministers responsible for mining and finance within 30 days following receipt of the application.

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[16] Small enterprises are still subject to Decree-Law No. 011/37 of 11 October 2011 amending Decrees Nos. 79-021 of 2 August 1979 and 90-046 of 8 August 1990 which prohibit foreign investors from entering the retail trade. Yet in practice, foreign investors have a presence in all activities, according to COPEMECO and FENAPEC.

[17] Law No. 004/2002 of 21 February 2002 on the Investment Code.

[18] Under the Code, goods may only be exempted from import duties and taxes if at least one of the following criteria is met: the goods in question cannot be manufactured in the DRC; the price excluding tax of the goods delivered to the enterprise is over 10% higher than the price of identical imported goods.

[19] Law No. 004/2002 of 21 February 2002 on the Investment Code; Law No. 007/2002 of 11 July 2002 on the Mining Code; Law No. 11/02 of 24 December 2011 on the fundamental principles relating to agriculture – Agricultural Code; Law No. 011/2002 of 29 August 2002 on the Forest Code; Law No. 15/012 of 1 August 2015 on the general hydrocarbons regime – Hydrocarbons Code; Law No. 14/011 of 17 June 2014 on the electricity sector in the DRC; Framework Law No. 013/2002 of 16 October 2002 on telecommunications in the DRC; and Law No. 15/005 of 17 March 2015 on the Insurance Code, which was adopted and promulgated and took effect in March 2016.

2.32. The DRC has entered into public-private partnership (PPP) contracts. Yet no regulatory framework or specific laws govern these types of partnership, which cover areas previously reserved for the State and in which investment and private management, whether or not hitherto under a concession regime, have been deemed conducive to accelerating infrastructure development, in areas such as: basic sanitation; generation, transport and distribution of electricity for public consumption; collection, treatment and distribution of drinking water through fixed networks; operation of port and airport services, railway transport, and scheduled passenger air transport on domestic airlines; and telecommunications infrastructure which is not part of the national network. These concession contracts may relate to: public works, public utilities, provision of services, uninterrupted supply, management and, in cases involving the use of a pre-existing establishment or infrastructure, collaboration. PPPs are appraised and decided on by an interministerial commission (Ecofin) on a case-by-case basis before being approved by the President of the Republic, upon proposal by the Government. The Bukanga Lonzo agro-industrial park, the rehabilitation and management of the Hotel Kempinski Fleuve Congo, and the Hotel Karavia were appraised and approved in this manner. PPP-related investment is eligible under the provisions of the legislation on investment described above.

2.33. Besides the tax exemptions granted under the different codes, there is a business or occupation tax levied on income earned by businesses, irrespective of their activities, and on net income in the liberal professions. The business licensing system concerns enterprises whose turnover does not exceed CDF 10 million. The single flat-rate tax (*impôt synthétique libératoire*) regime applies to enterprises whose turnover is between CDF 10 and CDF 80 million. Beyond this threshold it is the common system that applies. Under Article 83 of the General Tax Code, the rate of the business tax on small and medium-sized enterprises, whether foreign or set up under domestic law, is set uniformly at 40% of company profits. The Government's decision to lower this rate to 35% was to become effective as of 2013. This reduction will align the DRC's rate with those of the subregion, which are generally higher than in many industrialized or developing countries.

2.34. Taxation in the DRC is burdensome and seems to run counter to the aim of competitiveness. Collection is at the same time formal and informal, owing to the transfer of State responsibilities to the provinces without an accompanying transfer of sufficient resources. This prompts local authorities to introduce new taxes and charges that increase the burden and make the system more opaque, all of which could become a real impediment to investment. Indeed, the system may prevent entrepreneurs from taking tax risk adequately into account in their economic calculations.

According to the authorities, however, companies approved under different codes enjoy other preferential facilities, including: (i) tax exemption for corporate profits for the first three years of operation; (ii) the possibility of depreciation by the declining balance method or accelerated depreciation, and to carry forward losses to subsequent periods during the initial years of operation; (iii) for companies with subsidiaries, the option to deduct the income from shares or ownership interests in those subsidiaries from their taxable profits; and (iv) tax reduction when profits are reinvested.

Table 2.3 Investment preferences under different codes and laws

<table>
<tr><th colspan="3">A. Concessions granted under the Investment Code[a]</th></tr>
<tr><th>Type</th><th>Granting procedure</th><th>Duration</th></tr>
<tr><td>Exemption from profits tax</td><td rowspan="10">Filing of 3 copies of the dossier with the ANAPI
Processing time:
30 days maximum</td><td rowspan="10">Region A (Kinshasa):
3 years

Region B (Kongo-Central, some cities in Katanga):
4 years

Region C (other provinces): 5 years</td></tr>
<tr><td>Exemption from land tax</td></tr>
<tr><td>Exemption from import duty on equipment and other materials</td></tr>
<tr><td>Exemption from export duty on finished products</td></tr>
<tr><td>SMEs receive the following specific benefits in addition:</td></tr>
<tr><td>Exemption from import duty on second-hand equipment and other materials</td></tr>
<tr><td>Exemption from import duty on the industrial inputs required for carrying out the approved investment</td></tr>
<tr><td>Deduction from taxable profits of amounts spent on training and environmental protection and nature conservation</td></tr>
<tr><td>Calculation of depreciation by the declining balance method</td></tr>
</table>

B. Concessions granted under the Mining Code[b]	
Customs concessions	**Tax concessions**
Full exemption from customs duty on exports of tradable goods	• Exemption from land tax • Exemption from the vehicle tax and the special highway tax • Exemption from movable property tax • Taxation of dividends at the rate of 10%; 30% of the rate of the profits tax • 10% of the rate of the special tax on expatriate remuneration (IERE)
1% cap on the payment of fees and charges for export-related services provided	
Customs duty of 2% before the mine actually starts to operate, and 5% afterwards	
Customs duty of 3% on fuels, lubricants, reagents and consumables	

C. Concessions granted under the Agricultural Code[c]		
Type	**Granting procedure**	**Duration**
Deduction from the tax base of expenses relating to the maintenance of the section of road linking the farming concession to the highway	Letter to the Minister of Agriculture Processing time: 30 days maximum	Indefinite duration
Preferential rate for farmers with respect to their consumption of water, electricity and petroleum products		
Permission to establish a tax-free provision not exceeding 3% of turnover for the financial year, for the purpose of rehabilitating arable land and preventing major risks and agricultural disasters		
Exemption from import duties and taxes on agricultural inputs		
Exemption from land tax on built-up and undeveloped land dedicated exclusively to farming		
Exemption from tax on all rolling stock used exclusively for farming		

D. Concessions granted to enterprises eligible under the Strategic Partnership on value chains[d]		
Type	**Granting procedure**	**Duration**
Suspension of VAT both domestically and on imports of materials and construction materials, equipment, spare parts, inputs and raw materials intended exclusively for the project	First conclude a partnership agreement with the Government under the Strategic Partnership on value chains	4 years
Suspension of VAT on services provided as part of operations directly linked to the project		
Suspension of VAT on intermediate and/or finished goods, as well as on services provided by the enterprise		
Exemption from import duty and taxes on goods, inputs, raw materials and equipment intended for the project		
Rebates on taxes collected at the initiative of various Ministries and fiscal departments at central, provincial and local levels by interministerial order		
Application of preferential energy tariffs per kW/h		

E. Concessions granted under the tax, customs, parafiscal, non-tax revenue and foreign exchange regimes applicable to cooperation agreements and cooperation projects[e]		
Type	**Granting procedure**	**Duration**
Exemption from internal, import or export taxes, duties, charges, customs duties, and national, provincial and municipal levies, whether direct or indirect	- The value of the investment may not be less than the CDF equivalent of US$1 billion; - Incorporation of social and environmental clauses; - Submission of an offer in the form of a financial package for the project; - Undertaking to ensure transfer of technology; - Undertaking not to recruit foreign labour unless qualifications and skills are unavailable locally	Life of the project
These exemptions do not apply to fees for services rendered and to information technology, the highway tax, tax on the vehicle used for work under the cooperation agreement and cooperation projects, as well as the tax on profits after the repayment of funding, etc.		
Suspension of customs duty and VAT on imports of capital goods, equipment, tools and spare parts intended exclusively for electricity generation	Approval by the Minister of Finance of the list of goods to be imported, after consultation with the Ministers responsible for mining and energy, when the goods are imported by the owner of mineral rights	
Suspension of customs duties and VAT on imports of electricity		

F. Concessions under the special economic zones regime in the DRC[f]		
Type	**Granting procedure**	**Duration**
Concessions granted under the Investment Code	The fiscal, parafiscal and customs concessions are set between the public institution responsible for managing the special economic zones and the developer	3 years for investment projects - project duration for the developer

G. Concessions granted pursuant to the rules relating to the conditions and procedures for rescuing an industrial enterprise in difficulty[gh]		
Type	**Granting procedure**	**Duration**
Full exemption for imports of inputs, with the exception of the related administrative fee	Be the subject of a collective preventive settlement or legal redress procedure designed to: - guarantee direct and indirect jobs; - develop local raw materials; - ensure tax contributions to the revenues of the central government, provinces and decentralized territorial entities	Once only
Full exemption from import duties and taxes on new equipment, machinery and tools and original spare parts where the value of such equipment does not exceed 10% of its c.i.f. value	Ensure the sustainability of the socio-economic impacts on the local and national environment	
Application of the declining balance method of depreciation, the pace of which is set in the programme contract for the capital goods purchased	To be filed, during or after the launch of the collective procedure, at the latest before the preventive settlement agreement (between the creditors and the company to prevent bankruptcy) or the composition agreement (between the creditors and the company for its redress)	
H. Concessions involving tax and customs relief measures applicable to the generation, import and export of electricity[i]		
Type	**Granting procedure**	**Duration**
Suspension of customs duty and VAT on imports of equipment, materials, tools and spare parts	Inform the Minister of Finance	4 years
Suspension of customs duty and VAT on electricity imports		

a Law No. 004/2002 of 21 February 2002; filing of 3 copies of the dossier with the ANAPI and processing time: 30 days maximum
b Law No. 007/2002 of 11 July 2002.
c Law No. 11/022 of 24 December 2011.
d Decree No. 13/049 of 6 October 2013.
e Law No. 14/005 of 11 February 2014.
f Law No. 14/022 of 7 July 2014.
g and h Law No. 14/023 of 7 July 2014 and Law No. 14/005 of 11 February 2014.
i Decree No. 15/009 of 28 April 2015.

Source: Information provided by the authorities.

2.35. Apart from the exemptions stipulated in the Law on VAT, the only other advantages envisaged are those contained in Order No. 072 of 30 December 2011 suspending the collection of VAT on imports by petroleum producing enterprises and mining enterprises operating under a contractual regime. According to the FEC, this provision creates discrimination between operators in the same sector and penalizes national operators.

2.36. Other measures will arise from the application of the provisions of the revised OHADA Uniform Act on General Commercial Law. These include the elimination of publication costs when starting a business (simply displaying the information publicly at the commercial court or posting it to the single window website will suffice), and the possibility to provide a sworn statement instead of a copy of a police record.

2.37. In return for these benefits, companies and enterprises formed for the purposes of private investment and having received approval must implement the programme as described and within the time-limits laid down in the Order; keep accounts in compliance with the OHADA system of accounts; monitor the performance of the investment; and allow inspections by the competent authority. They must also train and promote Congolese staff and comply with environmental protection and nature conservation regulations.

2.38. The settlement of disputes (concerning application of the Investment Code and other specific codes) between the Government and an investor complies with the substantive laws and regulations and administrative procedures in force. Disputes can first be settled within Congolese jurisdictions, or an investor may choose freely between domestic or international institutional arbitration. In the event of international arbitration, the case must be referred to the International Arbitration Chamber of Paris or heard in accordance with the arbitration rules of the International

Centre for Settlement of Investment Disputes (ICSID), of which the DRC has been a member since 1970.[20]

2.39. The DRC is a member of the Convention establishing the Multilateral Investment Guarantee Agency (MIGA), which enables foreign investors to cover themselves against four types of risk linked to the country of establishment: (i) restrictions relating to currency transfer; (ii) expropriation; (iii) war and civil disturbance; and (iv) breach of contract. The DRC is also a member of the Africa Trade Insurance Agency (ACA), which insures investments against risks of all kinds, including commercial risk. Moreover, the accession of the DRC to the Organization for the Harmonization of Business Law in Africa (OHADA) is under way.[21] The OHADA Treaty should enhance legal certainty by providing the parties with common, simple and modern business legislation. It establishes appropriate judicial mechanisms for the settlement of trade disputes.

2.40. The DRC has signed Investment Promotion and Protection Agreements (IPPAs) with Germany, Belgium, Luxembourg, France, Italy, United States, Republic of Korea, South Africa and China. These agreements contain all the usual provisions to be found in IPPAs concerning eligibility criteria; protection, with fair and equitable treatment, and security and protection excluding any unjustified or discriminatory measures, including treatment not less favourable than that given to citizens of the country where the investment is made; a ban on taking any measures on forfeiture or restriction of ownership rights, except for reasons of public necessity, security or national interest, with the payment of adequate and effective compensation; guarantee of freedom to transfer assets; and the option of recourse to conciliation or arbitration by the ICSID in the event of a dispute with the State and the investor concerned so requests.

2.41. According to the World Bank, the DRC is still one of the countries of the world where it is very difficult to do business. The business climate is characterized by excessive taxation, red tape, high costs of factors of production, weak infrastructure, and restricted, expensive access to credit. Some reforms have marginally improved the business climate since the previous TPR in 2010. Admittedly, it is becoming easy to start a business and obtain a building permit in the DRC. Yet the other indicators have remained unchanged if not worsened, placing the DRC only 184th among 189 countries worldwide in the World Bank's ease of Doing Business rankings for 2016[22], just ahead of the Central African Republic in 185th place, Venezuela (186th), South Sudan (187th), Libya (188th) and Eritrea (189th). The DRC had already ranked 182nd out of 183 countries in 2010.[23] Table 2.4 below charts the trends in the DRC's rankings for the various Doing Business indicators over the past two years.

2.42. Improving the business climate in the DRC is one of the areas that will receive priority government attention so as to attract private investors and indirectly support economic growth and job creation. The Government has thus undertaken to introduce institutional and legal reforms by, for example, adopting incentives to encourage foreign direct investment (FDI), improving the services provided with the introduction of the Single Window for Business Startups and the Single Window for Foreign Trade, developing infrastructure, and rationalizing and streamlining procedures. Since 2009 the Government has had to strengthen its institutional framework by establishing the Steering Committee for the improvement of the business and investment climate (CPCAI). The CPCAI was dissolved in 2016 and the ANAPI is now the only institution responsible for the business climate, investment promotion, and receiving, appraising and proposing investment projects for approval in the DRC.

[20] The ICSID Convention relates to investment disputes between States and nationals of other States and was ratified by the DRC on 29 April 1970.

[21] Through Law No. 10/002 of 11 February 2010 the DRC acceded to the Treaty on the Harmonization of Business Law in Africa (OHADA Treaty) but has not yet adopted implementing legislation at the domestic level. It should be noted that the OHADA Uniform Act on Arbitration, which was adopted on 11 July 1999 and supposed to take effect 90 days later (Article 9 of the Treaty), is not yet being applied in the DRC.

[22] World Bank (2016).

[23] World Bank (2010).

Table 2.4 Changes in the DRC's rankings for the World Bank's Doing Business indicators, 2016 and 2015

Indicator	Ranking 2016	Ranking 2015	Change
Starting a business	89	172	+83
Obtaining construction permits	131	157	+26
Getting electricity	174	173	-1
Registering property	135	135	No change
Getting credit	133	128	-5
Protecting minority investors	174	173	-1
Paying taxes	173	170	-3
Trading across borders	187	187	No change
Enforcing contracts	165	165	No change
Resolving insolvency	189	189	No change

Source: World Bank (2016), *Doing Business*. Viewed at: http://francais.doingbusiness.org/data/exploreeconomies/congo-dem-rep.

2.43. According to the authorities, and pursuant to the recommendations of the first review of the country's trade policy in 2010, the DRC has introduced a number of reforms and measures designed to streamline taxes and other levies at the border with a view to improving the business environment and easing the financial burden on economic operators.

2.44. Decree No. 011/32 of 29 June 2011 eliminated 16 border levies deemed to be illegal (lacking any legal basis or introduced through texts adopted in breach of the law). As part of this move, an interministerial order was issued in June 2014 with a view to the fiscal consolidation of the river and lake transport sector, which is an important means of goods transport in the DRC. Of the 59 charges listed, this text abolishes 38 (or 64.4% of them), which are either devoid of any legal basis or are redundant (Section 4).

2.45. Besides, several joint orders were issued by the Ministry responsible for foreign trade and the Ministry of Finance in 2011 and 2015, respectively, which have gradually reduced to two the total number of levies to be collected at the initiative of the Ministry of Trade. The levels of the abovementioned charges have also declined significantly. For example, between 2011 and 2015 the fee for an import/export number fell from US$250 to US$125, then to US$75 and finally to US$45 (about CDF 42,500) for natural persons; and from US$500 to US$250, then to US$125, and finally to US$75 (about CDF 70,800) over the same period for legal persons. The fee on import transactions has also been abolished. In addition, several measures were implemented over the period 2010-2015 that affect local trading. For example, the fee for the national tax identity number, which is required for engaging in any economic activity in the DRC, went from US$200 to US$100, then to US$30 for legal persons; and from US$100 to US$50, then finally US$10 for natural persons (Section 3).

2.46. Furthermore, as part of the drive to simplify foreign trade procedures and formalities, the Central Bank of the Congo (BCC) has digitized the import and export declaration forms for goods and services, and they are now processed online. Likewise, to reduce the number of parties to be dealt with at the customs cordon, the Government decided, through Decree No. 13/052 of 11 November 2013, to consolidate into a single levy several charges collected by government departments and entities when goods are imported or exported. This single amount will be now paid to the customs authority, which will in turn distribute it to the relevant government departments and entities.

2.47. These various actions come within a broader framework involving the creation of an integrated single window for foreign trade, the pilot phase of which began in September 2015.

2.48. As pertains to labour legislation and in order to enhance legal certainty on the job market, the DRC set up three labour courts during the review period, in Kinshasa (Matete, Gombe) and Lubumbashi. In 2012 the Government also decided that the level of recruitment of foreign labour, which varies across different sectors of activity, would be reduced as follows: from 15% to 4% for general trade, banking, insurance, transport, and new information and communications technologies; and to 6.5% for agriculture, mining and quarrying, manufacturing, construction and public works, electricity and water and general health services. Moreover, in 2011 the Government published the National Action Plan (PAN) to combat the worst forms of child labour adopted in 2010; and in November 2015, the country also adopted the National policy paper on employment and vocational training.

2.49. The DRC is committed to continuing reforms to enhance and make its business environment more attractive. In the realm of justice, there are plans to liberalize the professions of notary and bailiff, which services have hitherto been provided by government departments. The Government furthermore plans to amend the law on the operation of commercial courts, particularly with a view to reducing the time it takes to settle trade disputes. With the same objective in view, new labour courts will be set up in other provinces. As regards domestic trade, the DRC is also moving to pass a new law on competition and consumer protection so as to remedy its regulatory shortcomings in this field.

2.50. DRC has also instigated other reforms to facilitate doing business, including reducing the cost of obtaining a construction permit, and the cost of registering a new building with the land register; encouraging business startups by abolishing or reducing the various costs associated with registering a new business; and by abolishing a long list of "nuisance taxes". However, although some of these measures have been debated and adopted by the Council of Ministers, they have not yet been transposed into laws. Consequently, despite these measures, the DRC's Doing Business ranking has barely improved, reflecting the slow pace of applying certain measures, a degree of inconsistency in implementing others and the need to increase interministerial coordination.

3 TRADE POLICIES AND PRACTICES BY MEASURE

3.1 Measures directly affecting imports

3.1.1 Registration and documents

3.1. Any economic operator wishing to engage in a commercial activity in the Democratic Republic of the Congo (DRC), including foreign trade, must obtain a national identity number (IDNat) from the Ministry responsible for the national economy; be registered and enrolled in the Trade and Personal Property Credit Register maintained by the Ministry responsible for justice, as a company or natural person; be registered in the index of the National Centre for Statistics and Economic Studies; and obtain an unique identifier from the Directorate-General of Taxation.[1] To carry out import/export operations, the trader must obtain an import/export number from the Ministry responsible for trade, whose relevant services operate outside the Single Window for Business Startups. The import/export number has to be renewed annually. These conditions are the same for DRC nationals and for foreigners.

3.2. National identification costs amount to US$30 for legal persons and US$10 for natural persons; an import/export number costs US$75 for legal persons and US$45 for natural persons.[2] The costs of a business licence, for small traders (an occupation reserved exclusively for Congolese)[3] are fixed by provincial edict and vary with the category of activity and the province. The costs of setting up a public limited company amount to 1% of the capital.[4] Whatever the nature of the company, the certificate of enrolment in the Trade Register and the tax identity number are among the documents required. The need for these three numbers is highly questionable, particularly as, although the unique identifier is free, the other two have to be paid for, even though the costs, which do not reflect the services rendered, have sharply decreased.

3.3. All the administrative procedures for setting up a company can be completed at a Single Window for Business Startups[5], and those relating to foreign trade at a Single Window for Foreign Trade (GUCE). The former has been fully operational since 2012 and the national roll-out of the GUCE has been going on progressively since February 2015.

3.4. Several data-processing systems belonging to different institutions are in place: the BCC's YSIS Mail; BIVAC's Verigates; the DGDA's ASYCUDA World and ASYCUDA++; and the Import and Export Log of the Congolese Control Office (OCC). However, there is still no integrated (shared) platform for the exchange of data between these various institutions; the mechanism currently being used for this purpose is fairly limited in scope.

3.5. In the DRC, except in frontier traffic, any merchandise import or export transaction, whatever the mode of financing, requires the signature and prior validation, by an approved bank or other authorized agent appointed by the Central Bank for the purpose, of an "EB" declaration form for

[1] Small traders do not have to register but must pay for a business licence (*patente*).

[2] See Interministerial Orders No. 009/CAB/MIN.COM/2015 and No. CAB/MIN/FINANCES/2015/0231 of 4 September 2015 fixing the rates of the duties, taxes and fees to be levied on the initiative of the Ministry of Trade.

[3] Small trading is deemed to be any activity with a turnover of not more than US$5,000.

[4] Interministerial Orders No. 009/CAB/MIN.COM/2015 and No. CAB/MIN/FINANCES/2015/0231 of 4 September 2015 fixing the rates of the duties, taxes and fees to be levied on the initiative of the Ministry of Trade.

[5] Interministerial Orders No. 001/CAB/MIN/J&DH/2013, No. 003/CAB/MIN/ECO.COM/2013 and No. 784/CAB/MIN/FINANCES/2013 of 15 April 2013 fixing the rates of the duties, taxes and fees to be levied on the initiative of the Ministry of Justice and Human Rights, the Ministry of the Economy and Trade and the Single Window for Business Startups; and Interministerial Orders No. 003/CAB/MIN/J&DH/2013 and No. 808/CAB/MIN/FINANCES/2013 of 20 May 2013 amending and supplementing Interministerial Orders No. 001/CAB/MIN/J&DH/2012 and No. 455/CAB/MIN/FINANCES/2012 of 24 May 2012 fixing the rates of the duties, taxes and fees to be levied on the initiative of the Ministry of Justice and Human Rights, establish the costs of administrative formalities in single windows. According to the schedule provided by the authorities, the costs of the formalities for setting up a single-person business (establishment) amount to the equivalent of US$40, while those for setting up other forms of company amount to the equivalent of US$120. This sum covers the costs relating to the authentification of the articles of association; enrolment in the Register of Trade and Personal Property Credit; the national identity number; the publication of the articles in the Official Journal of the Democratic Republic of the Congo; and the authorization to open for business or single establishment tax.

goods exports and an "IB" declaration for imports.[6] Moreover, any export or import transaction involving the provision of services requires the prior signature, by an approved bank, of an "ES" declaration form for exports of services and an "IS" declaration form for imports of services, whatever the amount. The "ES" form remains valid for 90 calendar days following validation. The "IS" form has a period of validity of 360 calendar days.[7]

3.6. To be accepted as an intention to import, an "IB" form must be duly validated by the Central Bank of the Congo (BCC) or an approved bank upon presentation of the following documents: the contracts and/or invoices and the specific authorizations required by the Government, where appropriate.

3.7. In the case of imports, the bank involved is authorized to make payment in favour of the foreign supplier in conformity with the exchange regulations, upon presentation of the following supporting documents: the contracts and/or invoices, the clean report of findings (AV) of the Congolese Control Office or its approved agent, proof of release for consumption issued by the Directorate-General of Customs and Excise, and other documentary evidence.[8]

3.8. The BCC levies an exchange control fee of 2‰ on all foreign exchange transactions irrespective of the status of the payer or the payee. It may also authorize approved banks or any other body to collect the exchange control fee on its behalf. Any participating approved bank automatically levies the exchange control fee on the total amount of the transaction it validates when export earnings are repatriated or when imports are paid for, or at the time of any other inward or outward transfer. In the case of imports not involving the purchase of foreign currency and exports not involving the repatriation of foreign currency, the fee is levied when the foreign exchange document is validated. The bank also levies other administrative charges linked, in particular, with: the authorization of the modification, extension, reinstatement, cancellation and transfer of foreign exchange documents; the late transmission of statistical data; the incorrect codification of foreign exchange transactions; the monitoring of foreign exchange transactions; and the registration of mineral trading counters, as well as with mineral treatment and processing entities.[9]

3.9. An "IB" form is not required for imports of the following goods provided they are not intended for resale, namely: objects deemed to be of no commercial value or for use as models; newspapers, periodicals and magazines intended for personal use within the context of a subscription; baggage and personal effects; and articles whose total value, including transport and insurance costs, does not exceed US$2,500 per consignment, order splitting being prohibited.[10]

3.1.2 Customs procedures

3.10. The Directorate-General of Customs and Excise (DGDA) is under the supervision of the Ministry responsible for finance. Since the DRC's last TPR, efforts have been made to modernize and computerize all the main customs offices.

3.11. The DRC has ratified the Revised Kyoto Convention on the Simplification and Harmonization of Customs Procedures; however, the instrument of ratification has not yet been deposited with the WCO. Goods under any customs procedure, whether imports or exports, must form the subject of a customs declaration, whatever their value; their being exempt from customs duties and taxes does not release them from this obligation. The documents required for completing customs procedures in the DRC are: a clean BIVAC report (AV); the supplier's invoice; the bill of lading; the certificate of origin, where appropriate; the original of the FERI; the packing list; the customs declaration form; and the waybill. Various additional supporting documents must be submitted depending on the nature and/or mode of transport of the goods: a sanitary, phytosanitary and/or disinfection certificate; authorization from the Ministry of Hydrocarbons (for the petroleum sector); evidence of eligibility for the incentives regime; and/or the original of the registration document (used vehicles). The customs administration may ask the importer to provide supplementary

[6] Article 23 of the Foreign Exchange Regulations of the DRC, Central Bank of the Congo, Democratic Republic of the Congo: February 2014.
[7] Article 50 of the Foreign Exchange Regulations of the DRC, *op. cit*.
[8] Articles 41 and 42 of the Foreign Exchange Regulations of the DRC, *op. cit.*.
[9] Articles 13 and 14 of the Foreign Exchange Regulations of the DRC, *op. cit*.
[10] Article 46 of the Foreign Exchange Regulations of the DRC, *op. cit*.

supporting documents. According to *Doing Business 2015*, customs procedures in the DRC require, on average, the submission of ten documents.[11]

3.12. Since 11 April 2011, there has been a requirement for merchandise imports and exports, whatever their origin/intended use or the customs procedure applicable, to be accompanied by an electronic import or export information form (FERI/FERE, respectively); however, the latter is not yet in use. These documents are issued by the Multimodal Freight Management Office (OGEFREM), under the authority of the Ministry responsible for transport.[12] The FERI is required for the customs declaration. It is intended to provide the customs services with information concerning the approximate value of the cargo, its tonnage and the nature of the merchandise. Once the charges have been paid, the FERI is made out in the port of shipment and validated by OGEFREM or its authorized agent. The documents required for issuing the form are: the bill of lading; the commercial invoice; and a form specifying the weight, nature (tariff line) and quantity of the goods. Since all these documents are already required for clearance, the result is duplication.

3.13. The charges made by OGEFREM for each form amount to €60 for a 20-foot container and €110 for a 40-foot container; normally, the cost is €0.50 per unit of payment (weight, volume, linear metre). In the case of cargos bound for the DRC unloaded at transit ports, since the FERI covers the goods from the port of shipment to the port of unloading, a destination certificate (AD) must be issued in the transit ports to accompany the goods to the borders of the DRC. This costs US$20. Moreover, for the enrolment in the shippers' register of economic operators exercising activities in the DRC, personally or through forwarding or shipping agents, OGEFREM charges a US$50 annual subscription fee.

3.14. The customs declaration may be lodged by a third party or directly by the importer on his own behalf. The goods may be cleared by a third party only if the latter is an approved customs broker. The approval of a customs broker for clearing all goods (other than petroleum products) is subject to the payment of a US$100,000 deposit (US$250,000 for those authorized for petroleum products). The approval granted to customs brokers is valid throughout the national territory for a renewable period of three years. For goods transported inside the country under customs control, the broker may be required to provide security covering the whole of the duties and taxes payable. For his services, the broker receives a commission freely negotiated between himself and the importer. In 2015, there were 130 approved customs brokerage agencies established in the DRC.

3.15. The importation of agricultural and forestry products is subject to authorizations (Section 3.1.10). Specific conditions also apply to persons granted approval to import petroleum products (Section 4.2.2).

3.16. Customs clearance procedures are computerized in 39 customs offices located throughout the Republic, on the basis of the Automated Customs System: 28 under ASYCUDA World and 11 under ASYCUDA++. It has been possible to file customs declarations electronically since 1989.

3.17. The transfer of all customs clearance procedures to ASYCUDA World is in progress. According to the customs authorities, 97% of customs transactions are being processed in this way. During the first half of 2015, DRC Customs registered 145,901 declarations on ASYCUDA World and 39,633 declarations on ASYCUDA++. However, the computerization of the customs service faces several challenges, including the reliability of the network; training for all the users; and the financing of the implementation of ASYCUDA World in the Sud-Kivu and Orientale Provinces. For all these operations, the customs levies an IT charge of 1% of the c.i.f. value on imports and 0.1% on exports.

3.18. The risk management mechanism used in the processing of customs declarations involves four channels: low risk – green (goods released as soon as the duties and taxes are paid, subject to payment facilities; the declaration is discharged automatically without any controls); relatively low risk – blue (see green channel but with deferred controls); medium risk – yellow (documentary checks and examination of the declaration); high risk – red (inspection of the goods; in-depth examination of the declaration with the goods being subjected to both documentary and physical

[11] World Bank (2015), p. 71.

[12] Prime Ministerial Decree No. 04/18 of 11 April 2011 on the manual of transitional harmonized procedures applicable to the Single Window for merchandise imports, Annex XI of Volume I (pre-clearance import modalities and procedures, securing of revenue during the customs clearance process).

controls before the declaration is discharged).[13] In the course of the year 2015, 1.58%, 44.53%, 38.13% and 15.76% of all customs declarations passed through the green, blue, yellow and red channels, respectively.

3.19. The main factors taken into account during risk assessment are: the customs procedure; the reputations of the importer, the exporter, the forwarding agent, the carrier and the customs broker; goods frequently undervalued in the declaration; the type of product imported; the country of origin; high-duty goods (tariff peaks); and major fluctuations in the quantity of goods imported. The risk factors are regularly assessed and analysed using economic and econometric methods.

3.20. In addition to the traditional system, the DRC has a special risk management system called *Système Orange*, a centralized value-checking mechanism installed with the aid of UNCTAD in the form of a value database. This system makes it possible, through the use of tariff specification codes (CST), to identify goods that pose a valuation risk (declared value 5% below or above the reference value in ASYCUDA World) and provide the Congolese Customs with a reliable (value) database.

3.21. The Customs Code of October 2010 provides for the following main customs procedures: release for consumption, suspensive and economic customs procedures and outright exportation. There are several subdivisions, namely, customs warehousing (public and private); transit (customs transit, transhipment, cabotage); temporary admission; re-importation in the same state; inward processing; and outward processing.[14]

3.22. Moreover, the DRC and Tanzania grant each other special customs facilities under the "Single Customs Territory between the United Republic of Tanzania and the Democratic Republic of the Congo" arrangement. These facilities are similar to those of a customs union (Box 3.1).

3.23. In addition to its own responsibilities, the DGDA collects money and performs other tasks, as appropriate, on behalf of the Directorate-General of Taxation (DGI), the Industrial Promotion Fund (FPI), the Directorate-General of Administrative and Government Property Revenue (DGRAD), the Multimodal Freight Management Office (OGEFREM), the National Insurance Company (SONAS), and the National Transport Office (formerly ONATRA) and now the STPC since the previous reform of State-owned enterprises (Section 3.1.5.3).

Box 3.1 Single Customs Territory

Single Customs Territory (TDU) between the United Republic of Tanzania and the Democratic Republic of the Congo

Modelled on the integration process under way within the East African Community (EAC), the single customs territory project is the result of the initiative taken by Tanzania to extend to goods destined for the Democratic Republic of the Congo, a non-member country with its own customs legislation and tariff, the customs procedures applied between the member countries of the EAC.

Thus, it has been agreed that dedicated facilities for receiving imports destined for the DRC, to which the Congolese customs legislation would be applicable, may be set up on Tanzanian territory.

The existing mutual assistance agreement between the customs administrations of the two countries has been converted into a comprehensive customs cooperation protocol so that it can serve as a legal basis within the single customs territory.

In accordance with TDU procedures, imports transiting through Tanzanian territory and goods produced or released for consumption in the United Republic of Tanzania will not be the subject of formalities relating to the signature of the transit or export declaration when destined for the Democratic Republic of the Congo. The formalities relating to the declaration of these goods will be completed exclusively in the DRC, before the goods in question leave Tanzanian territory.

Source: Information provided by the DGDA.

[13] Directorate-General of Customs and Excise (DGDA): Decision No. DG/DGDA/DG/2011/296 of 11 August 2011 on measures for the implementation of Ordinance-Law No. 10/002 of 20 August 2010 on the Customs Code, Article 40.

[14] Democratic Republic of the Congo: Ordinance-Law No. 10/02 of 20 August 2010 on the Customs Code, specifically Title VI concerning customs procedures.

3.24. At the written request of importers and exporters, the Directorate-General of Customs will issue advance rulings on the tariff classification of goods. Applications must be accompanied by: the pro-forma invoice; samples, photographs or instruction manuals; sanitary, phytosanitary, origin, fumigation or quality analysis certificates; and/or documents relating to the payment of royalties. Advance rulings are free and valid for three years, provided that no changes in the Harmonized System nomenclature have been transposed in the DRC; there is no charge for issuing them (Article 14 of the Customs Code).

3.25. In the DRC, operators who are dissatisfied with a customs ruling may seek a discretionary or hierarchical remedy from the Minister responsible for finance. There is provision in the regulations for a Customs Dispute Settlement Committee, but it is not yet operational. Moreover, an electronic dispute management system (GELEC), with a module to assist with the completion of infringement reports online, has been designed and is in process of being implemented. In 2015, out of the 103 disputes handled by the customs, with a total value of US$52 million, about 60% concerned valuation and the total or partial non-fulfilment of obligations to the customs, 13% concerned the absence of declarations, 8.5% attempts at exemption fraud, and the rest attempts to evade the payment of duty on goods, forgery and the use of forged documents, diversion to other uses and the misapplication of duties.

3.26. According to the World Bank's *Doing Business 2015* report, the average time taken to clear goods through customs, including technical inspection, is ten days for imports as compared with seven days for exports; handling at the point of entry (exit) adds 10 and 11 days to these times, respectively.[15]

3.27. The DRC has not yet ratified the Trade Facilitation Agreement. Nor has it sent the WTO its Category A commitments notification within the context of the Agreement.

3.1.3 Preshipment inspection and customs valuation

3.28. Since the previous review of the DRC's trade policy in 2010, preshipment inspection has remained compulsory for all imports, except for those with an f.o.b. value of less than US$2,500.[16]

3.29. The following categories of goods are exempt from preshipment inspection but, with some exceptions, are subject to inspection by the OCC on arrival: gold and precious stones; works of art; explosives and pyrotechnic products; arms and ammunition imported by the State; live animals; fresh eggs; fruit, vegetables, fish, meat, fresh or refrigerated (not frozen); newspapers and periodicals; exports from the DRC re-imported in the same state as that in which they were exported; personal effects upon removal, including one motor vehicle, provided that it meets the criteria applicable to residents returning to the DRC (all other vehicles must be inspected); scrap metal; parcels of no commercial value; commercial samples; gifts from foreign governments or international organizations to recognized humanitarian foundations or organizations; personal gifts; aid from foreign governments or foreign organizations or from private persons for disaster relief; gifts and supplies imported for their own needs by diplomatic and consular missions or by United Nations agencies or other international organizations with duty-free privileges; and goods acquired by means of external grants or financing.[17]

3.30. The company BIVAC has been authorized by the Government to carry out preshipment inspection on behalf of the DRC since 1 February 2006. Under the contract, inspection by BIVAC has to cover verification of the documents, quantity, price and tariff heading, on the one hand, and quality and conformity, on the other. Preshipment inspection applies to all imports irrespective of their mode of transport. It is carried out at the place of production, storage or shipment.

3.31. The inspection procedure gives rise to a report. If the inspection is satisfactory, an AV (clean report of findings) is issued. If the inspection is not satisfactory, BIVAC issues a discrepancy report and an ARA (rejection notice). If an operator disagrees with the BIVAC value, he may apply to the customs for a ruling. Presentation of the BIVAC AV is mandatory for clearing imports. It indicates the tariff heading, the price and the quantity imported; it must accompany the other

[15] World Bank (2015).
[16] See BIVAC contract signed on 30 November 2005 with the Government of the DRC, together with Amendments Nos. 1, 2 and 3 of 28 December 2011, 12 February 2015 and 29 February 2016, respectively.
[17] The DRC notified its laws and regulations relating to preshipment inspection in 2008.

documents required by the customs for the completion of clearance formalities (Section 3.1.1). However, the DGDA is not bound by it. Since the beginning of March 2016, BIVAC has no longer been checking prices and quantities for customs valuation purposes.

3.32. The documents required for preshipment inspection include the following: a copy of the import permit or prior declaration obtained from the BCC or from an approved commercial bank; a copy of the pro forma invoice for the goods, the purchase order, the price list, the letter of credit, and any other document which BIVAC considers necessary for providing its services; a copy of the tender documents, if the goods are being shipped following an invitation to tender; and a copy of the contract or confirmation thereof if the goods concerned are customarily sold on the basis of a sales contract. Copies of the report are sent to the OCC and the DGDA through the OCC-DGDA coordination unit located in BIVAC's liaison office. These documents are now being transmitted electronically using the following software: the Central Bank's ISYS Mail; BIVAC's Verigates; the DGDA's ASYCUDA World and ASYCUDA++; and the OCC's Log Import and Export.

3.33. Inspection costs are charged at the rate of 0.75% of the f.o.b. value, with a minimum charge of US$100. At a rate of 0.75%, US$100 would correspond to imports worth US$13,333. As the minimum amount at which imports begin to be affected is US$2,500, this lump sum corresponds to a maximum levy that is much greater than 0.75%. Thus, for any imports with a value on the range from US$2,500 to US$13,333, the charges will be greater than 0.75% and could amount to as much as 4% in the case of imports worth US$2,500. The DRC being an LDC with limited revenue, it is quite likely that the flat rate is often charged, which would make the preshipment inspection costs even higher.

3.34. According to the authorities, in 2014, 70,939 inspections were carried out on goods with a total value of about US$4 billion. In the same year, total preshipment inspection costs amounted to about US$51 million. In fact, its objectives notwithstanding, the mandatory nature of this inspection is increasing the cost of imports by the amount of the charges (especially the lump sum) levied on the importers and is duplicating the work of the customs, but not that of the OCC for which BIVAC works as a subcontractor.

3.35. The inspection contract between the DRC and the company Bureau Veritas ended on 14 November 2015 and was extended until 14 November 2016. Since, according to the Congolese authorities, the preshipment verification programme is still necessary, no reforms are currently envisaged to make the preshipment inspection of Congolese imports non-mandatory. However, the autonomization of the OCC is being encouraged in order to at least reduce if not eliminate the need for subcontracting. The BIVAC "import declaration" and the corresponding AV (clean report of findings) have still not been completely digitized.

3.36. In principle, the DRC has applied the WTO Customs Valuation Agreement since 2003. It transposed the provisions of the Agreement into its national legislation by enacting Law No. 009/03 of 18 March 2003 on the customs valuation of imported goods. The provisions were reproduced in the Customs Code in force, which was adopted on 10 August 2010. However, the country is having difficulty in effectively implementing the Agreement. Thus, from time to time Congolese Customs resorts to reference values supplied by BIVAC for determining the value for customs purposes.[18]

3.37. According to the DRC's customs authorities, as a result of the difficulty in verifying the authenticity of the documents submitted in connection with the valuation of imports for customs purposes, the lack of genuine collaboration between the economic operators and the customs administration, and the near impossibility of deferring the valuation of the goods (Article 16 of Law No. 009/03 of 18 March 2003), in particular because the customs lacks control over the national index of importers' tax identifiers, out of the six methods of valuing goods available, the last, so-called reasonable means method is that most used in the DRC (around 50% of the cases handled).

3.38. Technical assistance is requested to improve the implementation of the multilateral provisions on customs valuation.

[18] DGDA: Technical Note, Kinshasa, July 2015.

3.1.4 Rules of origin and tariff preferences

3.39. There has been no change in the system of rules of origin in force in the DRC since its previous review in 2010.[19] The authorities have indicated that they do not make use of non-preferential rules of origin. However, Ordinance-Law No. 10/002 of 20 August 2010 on the Customs Code of the Democratic Republic of the Congo provides for the application of rules of origin. Moreover, the DRC does not yet apply preferential rules of origin, because it has not yet implemented the provisions of the trade agreements it has signed. However, the Order for the implementation of the COMESA free trade area was adopted on 1 December 2015.[20]

3.40. Thus, the DRC is not yet granting tariff preferences to its trading partners. However, according to the authorities, to facilitate and promote small-scale cross-border trade, the DRC has set up a simplified tariff system comprising a single 5% tariff levied essentially on local products.[21] The dissemination of this simplified tariff was planned for the second half of 2015. For the provinces of Nord-Kivu and Sud-Kivu, it will have the support of the World Bank, which has a regional integration project in the Great Lakes region (PIRGL).

3.41. With regard to non-reciprocal preferences, including under the Generalized System of Preferences (GSP), the DRC applies the rules of origin of the countries of destination concerned.

3.1.5 Customs levies

3.1.5.1 Applied MFN tariff

3.42. The DGDA remains one of the principal sources of budgetary and global State revenue (Table 3.1). The DRC adopted the 2012 version of the Harmonized Commodity Description and Coding System (HS) in 2012. The tariff is *ad valorem* for all its 5,842 lines and comprises four rates: zero, 5%, 10% and 20%. The zero rate is applicable to a limited number of products, in particular, postage stamps, stamped paper and coins. The 5% rate applies to capital goods; raw materials; agricultural and livestock inputs; parts, components, accessories and subassemblies intended for assembly under the Completely Knocked Down (CKD) conditional destination regime; pharmaceutical inputs; automatic data-processing machines; and milk and other infant food preparations. The 10% rate applies to parts, components, accessories and subassemblies intended for assembly under the Medium Knocked Down (MKD) conditional destination regime[22]; staple foodstuffs; replacement parts; spare parts and accessories; and industrial inputs. The 20% rate is imposed on other finished products.[23]

3.43. The DGDA also collects excise duties and VAT on imports.

Table 3.1 Tax revenue by principal source, 2010-2014

(US$ million)

	2010	2011	2012	2013	2014
General budget	3,725	3,487	4,712	4,514	5,107
Current revenue	2,381	2,914	3,626	3,876	4,696
Customs and excise revenue/Directorate-General of Customs and Excise (DGDA)	831	1,088	1,443	1,646	1,938
Tax revenue/Directorate-General of Taxation (DGI), excluding oil	857	1,040	1,354	1,331	1,830
Non-fiscal revenue	390	386	407	468	615

[19] WTO document WT/TPR/S/240/Rev.1 of 29 March 2011.
[20] Law No. 15/018 of 1 December 2015 amending and supplementing Ordinance-Law No. 011/2012 of 21 September 2012 establishing a new Tariff of Import Duties and Taxes, under the Treaty on the Common Market for Eastern and Southern Africa (COMESA), signed on 5 November 1993.
[21] Democratic Republic of the Congo, Ministry of Finance: Order No. CAB/MIN FINANCES/2014/003 of 21 August 2014.
[22] Eligibility for the CKD and MKD conditional destination regimes is conditional upon authorization by the relevant customs administration department.
[23] Ordinance-Law No. 011/2012 of 21 September 2012 establishing the Tariff of Import Duties and Taxes and Ordinance-Law No. 012/2012 of 21 September 2012 establishing the Tariff of Export Duties and Taxes.

	2010	2011	2012	2013	2014
Of which:					
Revenue from the Directorate-General of Administrative and Government Property Revenue (DGRAD)/excluding oil	384	348	407	401	546
Revenue from oil producers	303	399	423	431	312
DGI	129	152	178	175	112
DGRAD	174	247	245	255	200
Exceptional revenue	106	84	331	0	0
External revenue	1,238	490	755	638	412
Budgetary support revenue	124	48	0	35	25
Of which:					
Budget grants	0	48	0	35	25
Investment financing revenue	1,114	441	755	602	386
Project grants	725	411	583	532	386
Project loans	389	31	172	70	0
Supplementary budgets	0	0	0	109	126
Special accounts/third-party transactions	0	0	0	276	296
Provincial revenue	39	0	0	0	0
Consular receipts	0	0	0	13	0
Financing to be sought	0	0	0	0	0
Total revenue	3,764	3,487	4,712	4,912	5,530

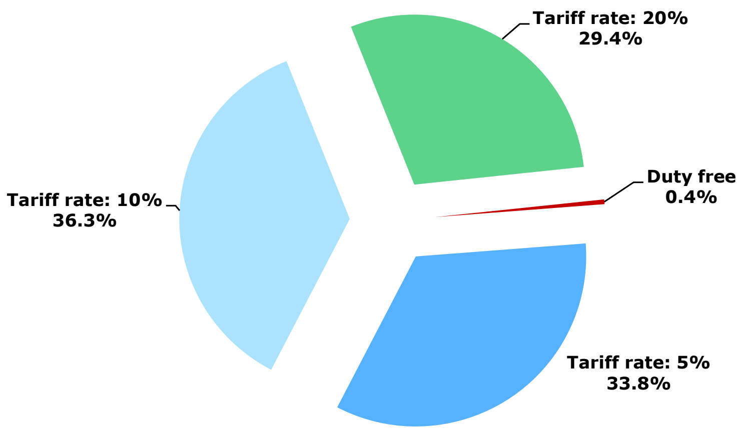
Source: Information provided by the authorities.

3.44. Since the last TPR a few innovations have been introduced in the DRC's new Tariff of Import and Export Duties and Taxes. These include: the transposition into the customs tariff of the amendments to the HS nomenclature, value added tax (VAT) and Law No. 11/022 of 24 December 2011 on the fundamental principles relating to agriculture; the exemption of banknotes; the adoption of other provisions authorizing the Government to take measures of a regulatory nature; and the provision relating to the transitional clause.[24] Moreover, the transposition of the VAT involved the adaptation of a number of provisions, in particular, the drafting of new paragraphs to implement the exemptions provided for by the Ordinance-Law establishing value added tax.

3.45. The modal rate of the DRC tariff is 10%, closely followed by the 5% rate and then that of 20%, with a small percentage of zero-rated lines (Chart 3.1). The simple average of the tariff rates is 11.2% with a standard deviation of 6.1, i.e. a coefficient of variation of 0.5, which corresponds to moderate dispersion. On the other hand, 29.4% of tariff lines (those with a rate of 20%) represent international peaks (Table 3.3).

Chart 3.1 Distribution of MFN duties, 2016

(% of total lines)



Note: No duty rate for four tariff lines (0.1% of total lines).

[24] Democratic Republic of the Congo, Ministry of Finance, Directorate-General of Customs and Excise (DGDA): Ordinance-Law No. 011/2012 of 21 September 2012 establishing the Tariff of Import Duties and Taxes and Ordinance-Law No. 012/2012 of 21 September 2012 establishing the Tariff of Export Duties and Taxes.

Source: WTO Secretariat calculations, based on data provided by the authorities.

3.46. Agricultural and non-agricultural products (WTO definition) enjoy about the same average levels of nominal tariff protection, 11.1 and 11.2%, respectively. In ISIC terms, manufacturing is the most protected sector with an average rate of 11.4%, followed by the agriculture, hunting and forestry sector (10%), and finally the mining and quarrying sector (7.1%). A breakdown of the rates by HS Chapter reveals a general increase in the protection levels for coffee and tea; beverages and tobacco; and wood and paper, together with textiles and clothing (Table 3.2). The DRC's tariff structure has remained relatively the same since the country's previous review in 2010 (Table 3.3 and Chart 3.1).

Table 3.2 Summary of MFN duties, 2016

	Number of lines	Simple average rate (%)	Range of rates (%)	Standard deviation
Total	5,842	11.2	0-20	6.1
Harmonized System (HS)				
Chapters 1 to 24	997	11.6	0-20	5.0
Chapters 25 to 97	4,845	11.1	0-20	6.3
By WTO definition				
Agriculture	841	11.1	0-20	5.3
Animal products	125	10.8	5-20	3.8
Dairy products	21	10.7	5-20	6.8
Fruit, vegetables, plants	236	10.7	5-20	4.1
Coffee, tea	24	16.0	5-20	5.8
Cereals and other preparations	100	9.3	0-20	5.5
Oilseeds, fats and oils	85	10.8	5-20	5.1
Sugar and sugar confectionery	18	11.9	5-20	5.3
Beverages and tobacco	85	18.8	5-20	3.7
Cotton	5	5.0	5-5	0.0
Other agricultural products	142	8.2	5-20	3.2
Non-agricultural products	5,001	11.2	0-20	6.2
Fish and fish products	225	12.0	5-20	4.0
Metals and minerals	996	11.1	0-20	5.6
Chemicals	898	8.1	5-20	5.2
Wood, paper, etc.	342	15.6	0-20	5.6
Textiles	699	12.9	5-20	6.2
Clothing	227	20.0	10-20	0.7
Leather, footwear, etc.	187	13.7	5-20	5.8
Non-electrical machinery	549	7.1	5-20	4.4
Electrical machinery	255	10.5	5-20	4.8
Transport equipment	184	9.7	5-20	6.1
Other manufactured articles n.e.s.	412	12.3	0-20	6.7
Petroleum	27	8.7	0-10	2.9
By ISIC[a] sector				
Agriculture, hunting, forestry and fishing	395	10.0	0-20	4.8
Mining and quarrying	99	7.1	5-20	4.3
Manufacturing	5,347	11.4	0-20	6.1
By stage of processing				
Raw materials	787	9.0	0-20	4.3
Semi-finished products	1,890	9.6	5-20	5.4
Finished products	3,165	12.7	0-20	6.4

a International Standard Industrial Classification of All Economic Activities (Rev.2), excluding electricity, gas and water (one tariff line).

Note: No duty rate available for four tariff lines.

Source: WTO Secretariat calculations, based on data provided by the authorities.

3.47. Overall, the tariff shows a slight positive escalation from raw materials (9%) to semi-finished products (9.6%) and a decidedly positive one towards finished products (12.7%). A more detailed two-digit breakdown (ISIC) shows that this overall structure is the result, *inter alia*, of the positive tariff escalation in food products, beverages and tobacco; textiles and clothing; paper, articles of paper, printing and publishing; and chemicals (Chart 3.2). In these industries, the positive escalation implies a relatively high level of actual protection, which is unlikely to boost the competitiveness of the products concerned and hence their exportation.

Table 3.3 Structure of MFN duties, 2010 and 2016

	2010	2016	Bound duty rates
1. Bound tariff lines (% of total lines)	N/A	N/A	100.0
2. Simple average MFN applied rate	11.3	11.2	96.0
Agricultural products (WTO definition)	11.2	11.1	97.5
Non-agricultural products (WTO definition)	11.3	11.2	95.7
Agriculture, hunting, forestry and fishing (ISIC 1)	10.0	10.0	96.4
Mining and quarrying (ISIC 2)	7.1	7.1	100.0
Manufacturing (ISIC 3)	11.4	11.4	95.9
3. Duty-free tariff lines (% of all tariff lines)	0.1	0.4	0.0
4. Non-*ad valorem* duties (% of all tariff lines)	0.0	0.0	0.0
5. Tariff quotas (% of all tariff lines)	0.0	0.0	0.0
6. National tariff peaks (% of all tariff lines)[b]	0.0	0.0	0.0
7. International tariff peaks (% of all tariff lines)[c]	30.3	29.4	99.1
8. Overall standard deviation of applied rates	6.1	6.1	17.4
9. Nuisance applied rates (% of all tariff lines)[d]	0.0	0.0	0.0

N/A Not applicable.

a The final bound rates are based on the 2016 customs tariff in the HS12 nomenclature.
b National tariff peaks are duties that are higher than three times the simple average of all applied rates.
c International tariff peaks are duties that exceed 15%.
d Nuisance duties are rates higher than zero but less than or equal to 2%.

Note: No duty rate available for four tariff lines.
The 2016 tariff consists of 5,842 lines (eight-digit, in accordance with the HS12 nomenclature).
The 2005 tariff consisted of 5,646 lines (eight-digit, in accordance with the HS07 nomenclature).

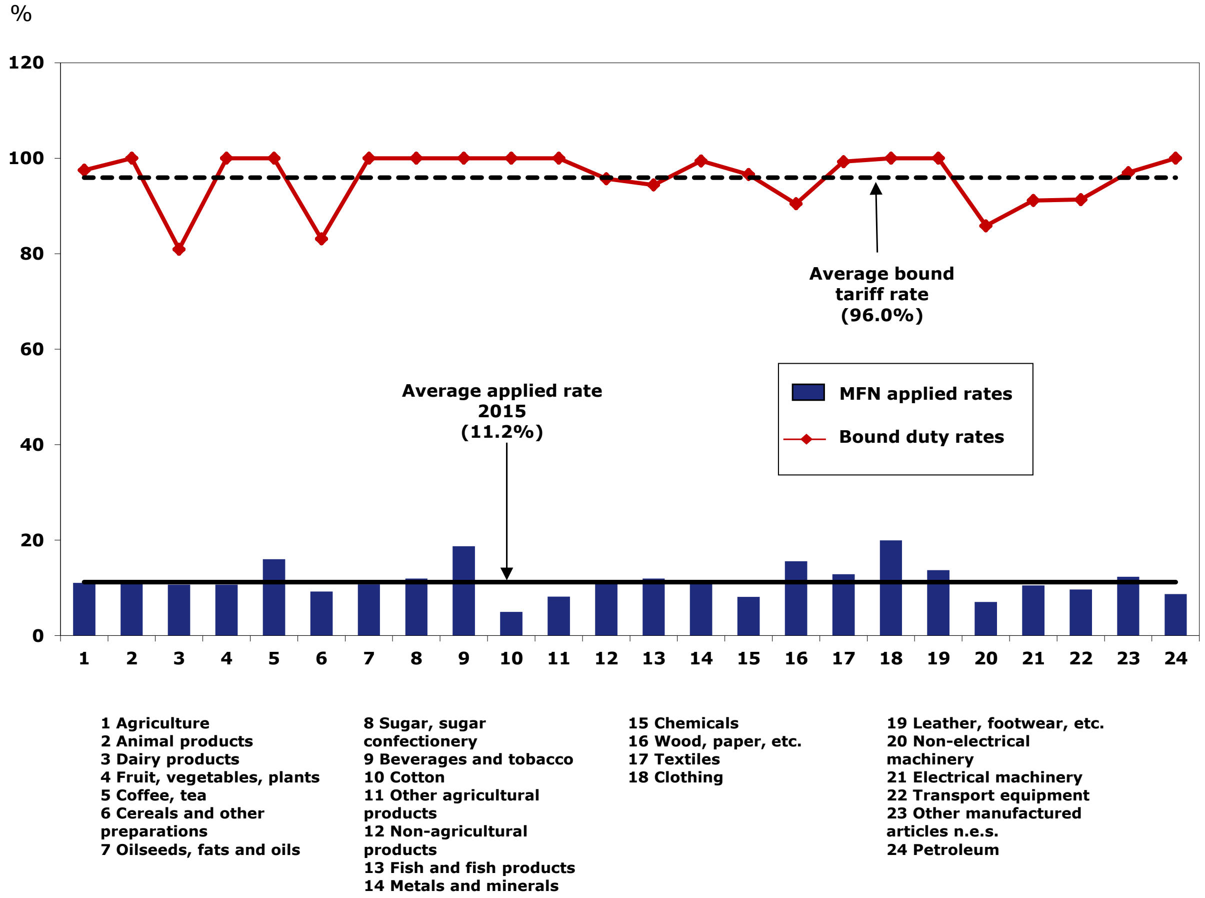
Source: WTO Secretariat calculations, based on data provided by the authorities.

3.48. On the other hand, the tariff structure of the following sectors: wood and articles of wood; non-metallic mineral products; and other manufacturing industries, as well as other industries (basic metals and metal products, machinery and equipment) shows mixed escalation, now heavily negative from raw materials to semi-finished products and then positive for finished products; now slightly positive from raw materials to semi-finished products and then negative for finished products (Chart 3.3).

3.49. Overall, the substantial protection accorded to the raw materials used by these industries, well above the average rate of 12.3% for manufacturing as a whole, keeps the costs of certain inputs and semi-processed products at high levels. This tariff structure does not encourage the diversification of economic activity by adding value through processing, a shortcoming reinforced by the tariff and tax relief granted under numerous provisions (Sections 2 and 3). As a result of this relief, the tariff escalation becomes positive and hence exacerbates the effective protection of the activities concerned. Furthermore, the high level of tariff protection given to some finished products does not encourage the sectors concerned to improve their international competitiveness and hence their export performance.

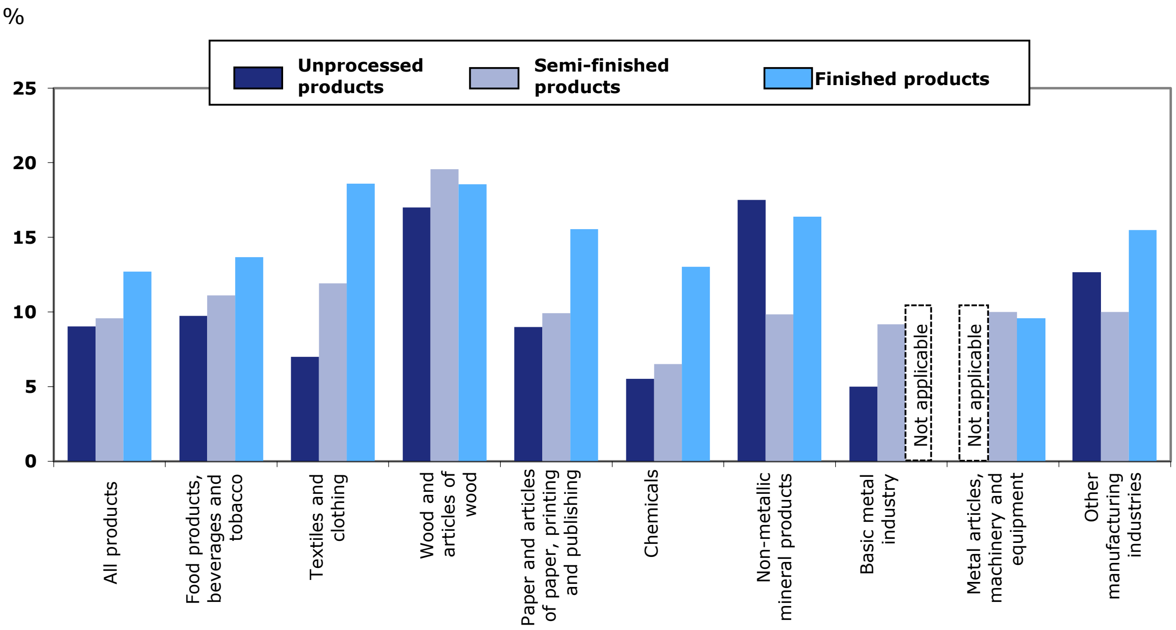
3.50. According to the authorities, the new tariff structure is intended to help achieve the following strategic objectives: stimulate and protect domestic production; attract investment; and promote the use of domestic labour. Unfortunately, an analysis of the tariff structure suggests that it is having the opposite effect.

Chart 3.2 Tariff protection by subsector, 2005 and 2016



Source: WTO Secretariat estimates, based on data provided by the authorities, and WTO Consolidated Tariff Schedules (CTS) database.

Chart 3.3 Escalation of MFN applied tariff rates, 2016



Note: The groups of products are those defined by the two-digit ISIC.

Source: WTO Secretariat calculations, based on data provided by the authorities.

3.1.5.2 Bindings

3.51. The DRC has bound all its tariff lines at ceiling rates, which leaves it a broad margin to increase its applied rates. The simple average bound rate is 96%, i.e. 97.5% for agricultural products (WTO definition) and 95.7% for non-agricultural products. In addition, the rates are 96.4% for agriculture, hunting, forestry and fishing (ISIC 1), 96.4% for mining and quarrying (ISIC 2) and 100% for manufacturing (ISIC 3) (Table 3.3). However, binding at ceiling rates does not guarantee the predictability of the DRC's tariff regime, which might deter a prospective partner, whether a trading partner or one seeking a favourable environment in which to invest (Chart 3.3).

3.52. Where other duties and taxes are concerned, the DRC has bound them at zero. However, in addition to the tariff, several other duties and taxes are levied on imports by or on behalf of various administrations.

3.1.5.3 Other levies

3.53. Since its previous TPR, the DRC has undertaken a very extensive programme of tax reforms to improve its business environment. The taxes and levies on imports have been rationalized and a good number abolished. However, out of 127, about 44 taxes and other charges continue to be imposed solely on imports (Table A3.2). Thus, the DGDA collects an IT charge of 1% of the c.i.f. value of the goods on imports and 0.1% on exports. The OCC makes a 2% charge on the c.i.f. value for controlling imports, including 0.75% on behalf of BIVAC. The Industrial Promotion Fund (FPI) levies 2% duty on the c.i.f. value of imported goods, with the exception of raw materials and products imported duty free. The Multimodal Freight Management Office (OGEFREM) charges commissions of 1.8% on the freight and 0.59% for transhipment, and recovers the costs of the electronic import information form (FERI) at the rate of €60 for a 20-foot container or €110 for a 40-foot container. The National Transport Management Office (SCTP, formerly ONATRA) collects US$20/tonne for ship handling at the quayside and US$32/tonne for transit fees. All import/export operations require a licence issued by a private bank against payment of US$12 and the BCC charges a 2‰ foreign exchange control fee on any payment that approved banks make abroad or receive from abroad, as well as on any exports not accompanied by foreign currency repatriation.

3.54. In addition to these duties and charges, several other taxes and fees are levied exclusively on imports (Table A3.2). Some of these duties, taxes and charges are for the inspection or control of goods. However, because they are often *ad valorem*, very high (disproportionate in relation to the controls carried out) and levied several times on the same goods by the same or several different bodies, they can hardly be regarded as payment for services rendered.

3.1.5.4 Internal duties and taxes

3.55. Since the previous TPR, value added tax (VAT) at the standard rate of 16% was been introduced into the Congolese tax system on 1 January 2012 in place of the turnover tax (ICA).[25] According to the authorities, the introduction of VAT should enable the DRC to improve its competitiveness by correcting the many distortions generated by the imposition of the ICA, in particular, cascading taxation.

3.56. The tax base for VAT is determined by Article 27 of the Ordinance-Law on VAT and varies according to the nature of the taxable transaction. Thus, in the case of imports, the tax base is the value for customs purposes (c.i.f.) plus customs duty and, where appropriate, excise duty. In the case of internal VAT, the tax base is the price charged by the supplier or service provider as consideration for the delivery or service.[26]

3.57. In the DRC, legal and natural persons, including members of the liberal professions, become subject to VAT when their annual turnover reaches or exceeds CDF 80 million. VAT is applied to most products, whether local or imported, on the basis of national treatment. Exports and

[25] Democratic Republic of the Congo, Office of the President (2010), Ordinance-Law No. 10/001 of 20 August 2010 establishing value added tax (VAT), Kinshasa, August 2010.

[26] Articles 28 to 29 of the Ordinance-Law on VAT.

operations treated as exports are subject to VAT at the zero rate (Article 7, Law on VAT). In addition, exemptions are granted (Section 3.1.7) and refunds are paid via the banking system.

3.58. Generally speaking, VAT credit refunds are received by exporters, businesses that have suspended their activities, businesses that are no longer liable to the tax, and businesses making heavy investments. These taxpayers are classified in three categories according to the degree of risk (A, B and C). The time taken to process requests for VAT credit refunds is a function of these various categories. An Order of the Minister responsible for finance concerning supplementary VAT credit refunds establishes the various categories of businesses eligible for the refund mechanism and the relevant processing time.

3.59. For low-risk businesses in category A the time for processing VAT credit refunds is 30 days. The refund is subject to a formal check. In practice, processing may take up to 60 days. For category B businesses, which are medium-risk, the processing time is set at 45 days. The refund is subject to a documentary check. In practice, processing may take up to 60 days. For high-risk category C businesses, the processing time is set at 90 days. The refund is subject to an on-the-spot check. In practice, processing may take up to 120 days.[27] These overshoots impose a burden on the cash flow of small and medium-sized enterprises with insufficient liquidity, which sometimes have to wait for three months to receive VAT refunds.

3.60. To guarantee the refunding of VAT credits, a "refundable VAT" account is opened in the name of the Director-General of Taxation in the books of the Central Bank of the Congo. This account is currently funded by debiting the Treasury's general purpose account, within the limits of the VAT revenue collected.

3.61. The DRC is experiencing difficulties in collecting VAT since accounting practice and traceability are poor and a number of businesses operate in the informal sector and thus escape VAT. Moreover, the long VAT refund processing times, up to three times the statutory waiting period, penalize businesses by reducing their liquidity.

3.62. Excise duties are levied, *inter alia*, on fuel, sugar, tobacco products, alcoholic beverages, aerated beverages, vehicles and telecommunications. The duties are *ad valorem* or specific and levied at rates that vary from 2 to 60%, according to the type of product, on both imports and domestic products.[28]

3.63. These duties may be imposed for fiscal reasons, to protect consumers or the environment, or because of the harmful effects of the products, their luxury nature or their mass consumption.

3.64. At importation, the clearance procedure for products subject to excise duties is the same as that for customs duties. The tax base is the c.i.f. value plus the amount of the tariff, except for mineral oils, for which the tax base is the average fiscal price at the border. In the case of domestic production, there are seven main formalities to be completed when paying excise duty, namely: declaration of work carried out (registration with the customs service); inventory and control of the raw materials used; registration of the finished products in their final commercial form; payment of the duty on all the quantities produced, not only those to be sold or distributed free of charge but also those consumed or used in the manufacturing process in the manufacturer's own facilities. As the duty is *ad valorem*, the rate applies to the ex-factory price, and every ten days declarations must be made to the customs and excise inspector, indicating the total quantities subject to the duty and the amount of duty payable, to be settled in a single payment.

[27] Ministerial Order No. CAB/MIN/FINANCES/2015/020 of 31 July 2015 establishing supplementary procedures for the refund of value added tax credits, and information provided by the Federation of Congolese Enterprises (FEC).

[28] Under the terms of Article 3 of Ordinance-Law No. 007/2012 of 21 September 2012 on the Excise Code, excise duties are levied on the following products known as "excise products": alcohol and alcoholic beverages (2%); table water, lemonade and juices (5%); manufactured tobacco (8%); petroleum products (10%); lubricating oil and lubricants (15%); fluids for hydraulic brakes and other fluids for hydraulic transmissions (20%); perfumes (25%); beauty or cosmetic products (27%); hair treatment preparations (30%); soap, organic surface-active agents, lubricating preparations and polishes, as well as shoe cream (35%); articles of plastic (37%); articles of rubber (45%); vehicles (45%); and telecommunications (60%).

3.65. In the DRC, the Constitution of 18 February 2006, as amended by Law No. 11/002 of 20 January 2011, divides up taxation powers between the central government and the provinces. The former collects income tax from companies and individuals, while the local authorities collect provincial taxes and levies, in particular the taxes on rental income and motor vehicles.

3.66. Central government taxes are fixed and levied in accordance with a law passed by Parliament and enacted by the President of the Republic. Provincial taxes stem from the provincial tax legislation. Businesses complain of the heavy fiscal pressure, including from local authorities, and its unpredictability; this pressure adversely affects their self-financing capacity, adds to the uncertainty of the business environment and restricts their capacity to invest.

3.1.6 Duty and tax concessions

3.67. The DRC grants various concessions (total or partial relief/exemptions) for imports and exports. However, goods eligible for concessions are subject to the administrative fee of 2% on the c.i.f. value at importation. Exports of agricultural products are exempt, but subject to a compensatory fee of 0.25% f.o.b. In the mining sector, tradable goods are subject to a fee and charges of 1% f.o.b. for services rendered.

3.68. The aim of the main concessions is to offer incentives for production in certain branches (in particular, agriculture and mining) or to encourage exports, job creation or the establishment of businesses inside the country.

3.69. The relief and exemptions from customs duties and taxes are incorporated, as appropriate, in the DRC's customs legislation, which also takes suspensive and economic procedures into account (Articles 156a and 174 of the Customs Code), as well as specific regimes for investment in free zones and special economic zones; the Tax Code; the Investment Code (Section 2.4); the Forest Code (Section 4.2); mining agreements and the Mining Code (Section 4.3); as well as petroleum agreements and the Hydrocarbons Code (Section 4.3). Exemptions from customs duty are also granted to goods imported by the State, foreign NGOs, diplomatic missions and international organizations. Other exemptions are accorded to "large enterprises" under their particular establishment agreements and also in connection with multilateral or bilateral conventions and agreements.

3.70. Temporary admission with total relief from import duties is granted for goods provisionally introduced into Congolese territory. The time limit for re-exportation may be extended if, for special reasons beyond the control of the beneficiary, it cannot be met. Requests for an extension must state the reasons and be submitted in writing before the original deadline expires.

3.71. Goods in transit are exempt from import, consumption and export duties and taxes. However, security corresponding to 125% of the duty has to be paid in order to guarantee the payment of any duties or fines that may be owing.

3.72. The law also incorporates exemptions from VAT (Articles 15 to 19).[29] Moreover, the collection of value added tax on imports of goods by petroleum producing enterprises and mining enterprises operating under a contractual regime has also been suspended until further notice.[30]

3.73. During the period 2010-2015, the total value of the exemptions granted annually amounted to between 7 and 11% of the country's global revenue and about 30% of State customs revenue (Section 3.1.5.1, Table 3.1), which deprived the State of considerable resources for implementing its various programmes. The scale of the loss of revenue resulting from all these exemptions (Table 3.4), which has increased considerably and for some items more than tripled since the first TPR, suggests that the existing system of taxation is not well adapted to the structure of the economy.

[29] Ministry of Finance, Directorate-General of Taxation (2014). Tax Code, updated 15 July 2014, Kinshasa: July 2014, Section 3 on exemptions.

[30] Ministerial Order No. 072 of 30 December 2011 on provisional measures to suspend the collection of value added tax at importation on goods imported by petroleum producing enterprises and mining enterprises operating under a contractual regime.

3.74. The main beneficiaries from exemptions at the customs cordon have been enterprises benefiting from concessions under various codes and agreements, particularly those of the Mining Code, followed by institutions that enjoy diplomatic privileges and the like (Chart 3.4).

Table 3.4 Breakdown of loss of revenue due to exemptions, 2012-2014

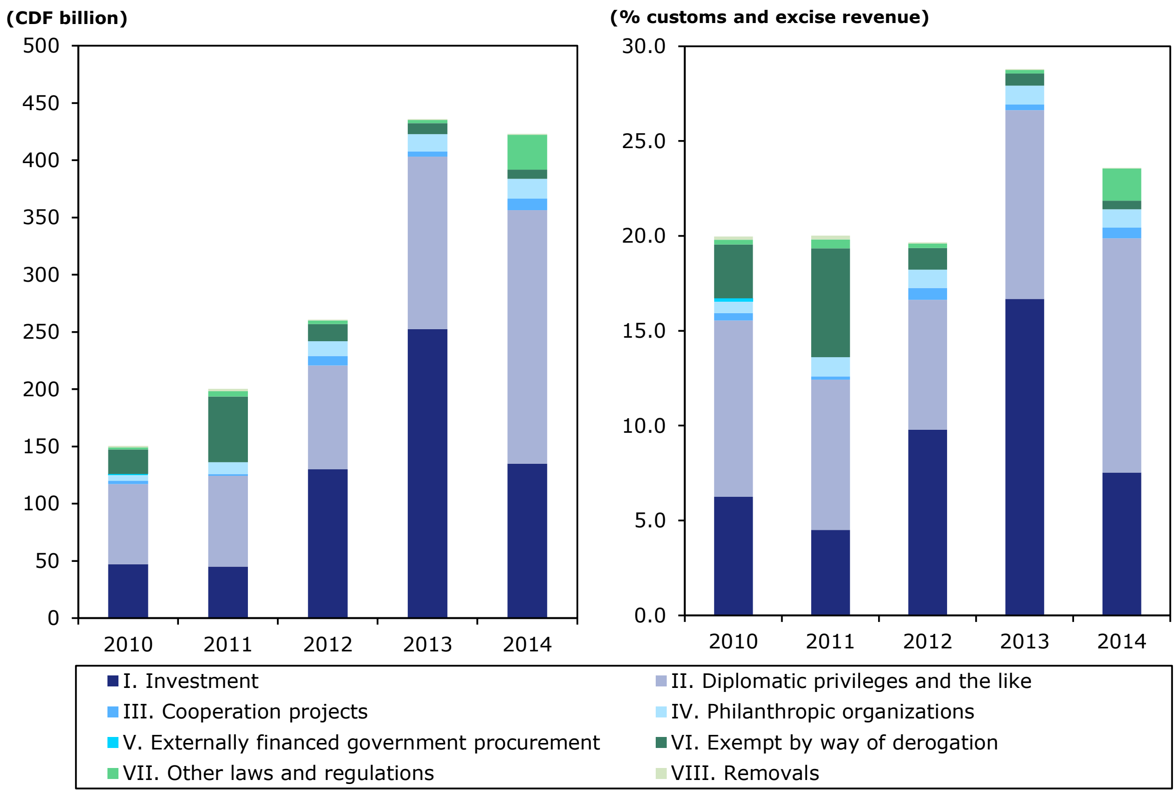
(CDF million and %)

	2012			2013			2014		
	CDF million	% of total	% of total revenue	CDF million	% of total	% of total revenue	CDF million	% of total	% of total revenue
Investment	129,921	49.8	3.5	252,546	57.9	6.1	134,935	31.9	n.a.
Investment Code									
General regime	14,354	5.5	0.4	9,190	2.1	0.2	10,628	2.5	n.a.
Contractual regime	0	0.0	0.0						
Special agreements									
Petroleum producers	27,914	10.7	0.7	17,945	4.1	0.4	61,672	14.6	n.a.
Mining agreements	14,498	5.6	0.4	14,386	3.3	0.3	6,586	1.6	n.a.
Mining Code	73,155	28.1	1.9	211,026	48.4	5.1	54,655	12.9	n.a.
Other investments	0	0.0	0.0	0	0.0	0.0	1,394	0.3	n.a.
Diplomatic privileges and the like	90,826	34.8	2.4	150,604	34.5	3.7	221,479	52.3	n.a.
Cooperation projects	8,162	3.1	0.2	4,414	1.0	0.1	10,167	2.4	n.a.
Philanthropic organizations	12,904	4.9	0.3	15,136	3.5	0.4	17,101	4.0	n.a.
Externally financed government procurement									
Exempt by way of derogation	15,111	5.8	0.4	9,714	2.2	0.2	8,119	1.9	n.a.
Other laws and regulations	3,106	1.2	0.1	2,789	0.6	0.1	30,588	7.2	n.a.
Removals	711	0.3	0.0	765	0.2	0.0	688	0.2	n.a.
Total	260,741	100.0	6.9	435,968	100.0	10.6	423,078	100.0	n.a.

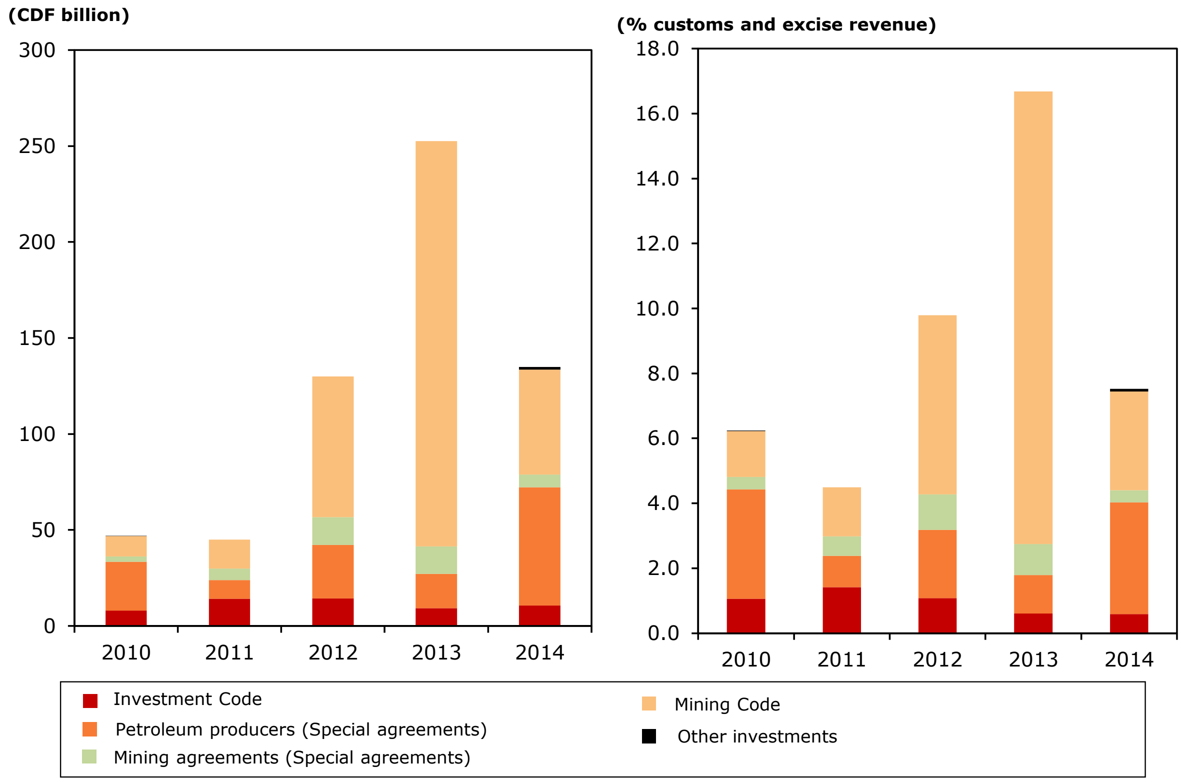
n.a. Not available.

Source: WTO Secretariat calculations, based on data provided by the authorities.

Chart 3.4 Breakdown of loss of revenue due to exemptions, 2010-2014



Investment-related exemptions



Source: WTO Secretariat estimates, based on data provided by the authorities.

3.1.7 Prohibitions, restrictions and import licensing

3.75. Article 13 of Special Law No. 73-009 of 5 January 1973 on trade, as amended in 1974, stipulates that the Minister responsible for foreign trade is empowered to take restrictive measures and prohibit the import of certain products. Such measures may be imposed for reasons of security and morality, to protect public health and the environment, or because of their strategic nature. The exchange regulations define the list of products subject to prior declarations, the corresponding regime being administered by the Central Bank of the Congo. Frontier traffic is not affected.

3.76. Article 30.3 of the new exchange regulations requires operators to make provisions or set up bank security when the declaration is validated, with a view to ensuring that the OCC and BIVAC receive payment for the services they provide in connection with importation and exportation. Moreover, the importation of pharmaceutical products is conditional upon a prior authorization invoiced at up to 2‰ of the c.i.f. value.[31]

3.77. The goods subject to import prohibitions and restrictions are, in principle, those indicated in the customs tariff and the exchange regulations (Tables 3.5 and 3.6).[32]

Table 3.5 List of prohibited imports, 2015

Description
Goods that infringe industrial property rights or copyright; counterfeit goods and imitations
Counterfeit notes and coins
Any silver failing to meet the standards relating to weight or fineness
Animals and animal products from areas affected by epizootic diseases
Plants from areas affected by phylloxera or other epiphytic diseases
Distilled beverages with an alcoholic strength of more than 40 degrees or containing essences or products recognized as being harmful, such as derivatives of absinthe or ether
Hazardous waste and its sale
Pharmaceutical and food products harmful for public health
Food products containing saccharin
Food products that do not satisfy the conditions laid down by the legislation in force or arrive in a poor state of preservation
Pornographic publications and other related products
Vehicles with right-hand drive and such vehicles converted to left-hand drive
Second-hand vehicles more than ten years old
Roulette tables and other gambling machines
Non-iodized salt
Drugs
Goods prohibited by the Montreal Protocol (CFCs)
Goods which because of their nature, characteristics, functions or resemblance could be confused with those used by the defence, security or police services
All varieties of genetically modified or transgenic seeds, except for those intended for food aid programmes

Source: DGDA (2015), Information note.

3.78. Since August 2015, the importation of grey cement has been conditional upon the possession of a programme contract concluded between the economic operator interested in the activity and the Ministry responsible for the national economy[33], since the authorities consider grey cement to be a strategic product.

[31] Ministry of Finance (2015), finance law for financial year 2015, Article 24. See also Interministerial Order No. 103 of 3 September 2014.

[32] Democratic Republic of the Congo, Ministry of Finance, Directorate-General of Customs and Excise (DGDA), Ordinance-Law No. 011/2012 of 21 September 2012 establishing the Tariff of Import Duties and Taxes and Ordinance-Law No. 012/2012 of 21 September 2012 establishing the Tariff of Export Duties and Taxes.

[33] Since 28 May 2015, the grey cement market has been subject to new regulations, namely, Ministerial Order No. 037/CAB/MIN/ECONAT/MBL/DKL/dag/2015 of 28 May 2015 requiring all grey cement importers in the Democratic Republic of the Congo to sign a programme-contract with the Ministry of the National Economy.

Table 3.6 List of products subject to authorizations, 2016

List of authorizations by Ministry and by product
i. Ministry of Foreign Trade
Annual authorization to export scrap (ASYCUDA code: AEM)
1. Ferrous scrap
2. Non-ferrous scrap
ii. Ministry of Agriculture, Fisheries and Livestock
1. Authorization to import plants, plant products and products of plant origin (valid for three months) (ASYCUDA code: AIV)
2. Authorization to export plants (ASYCUDA code: AEV)
3. Certificate of origin for plants (ASYCUDA code: COV)
4. Authorization to import phytosanitary products (valid for three months) (ASYCUDA code: APP)
5. International veterinary certificate (ASYCUDA code: CVI)
6. Authorization to import animals and biological and veterinary products (ASYCUDA code: AIA)
7. Authorization to export animals, biological products, veterinary pharmaceuticals and veterinary and livestock inputs (ASYCUDA code: AEA)
Fish
1. Authorization to export aquarium fish (quota of 75,000 specimens per year) (ASYCUDA code: AEP)
2. Authorization to import new species of fish (for one year) (ASYCUDA code: AIP)
iii. Ministry of Public Health
1. Tax on the authorization to import pharmaceutical products (ASYCUDA code: AIM)
2. Quality certificate for pharmaceutical exports
iv. Ministry of Hydrocarbons
Authorization to import and market petroleum products and bitumen (ASYCUDA code: APB)
1. Petroleum products (12 months per permit or authorization)
2. Bitumen
v. Ministry of Energy
Authorization to import calcium carbide and gas (ASYCUDA code: ACC)
vi. Ministry of Mining
1. Authorization to export mining products other than gold and diamonds (ASYCUDA code: APM)
2. Authorization to export mineral substances in the crude state
3. Authorization to export tradable mining products (ASYCUDA code: AOD)
vii. Culture and arts
Authorization to export works of art and craft products (ASYCUDA code: AEO)
1. Works of art
2. Craft products
viii. Ministry of the Environment, Nature Conservation and Tourism
a. Permit to exploit wildlife products and by-products
(import, export and re-export of animals, whether or not protected)
1. Totally protected animals
2. Partially protected animals
3. By-products
4. Unprotected animals
b. Phytosanitary certificate for exporting timber
1. Logs, class 1
2. Logs, class 2
3. Sawnwood, edged
ix. Ministry of the Interior and Security
Special authorization to import arms for hunting and self-defence
x. Ministry of Transport and Communications
Authorization to import an aircraft (ASYCUDA code: AAF)

Source: DGDA (2015), Information Note.

3.1.8 Antidumping, countervailing and safeguard measures

3.79. The DRC does not yet have any legislation on contingency measures. However, Article 4 of Decree No. 0011 of 22 January 1997[34] establishing a commission responsible for controlling imports of protected goods allows for the possibility of taking safeguard measures to protect and encourage domestic production. Moreover, since July 2014, the country has had a law establishing rules concerning the conditions and procedures for rescuing industrial enterprises in difficulty.[35]

[34] The Decree was followed by Ministerial Order No. 013/CAB/MIN/FIN&BUD/2000 of 21 October 2000.

[35] Democratic Republic of the Congo, Office of the President of the Republic (2014). Law No. 14/023 of 7 July establishing rules and procedures for rescuing an industrial enterprise in difficulty, Official Journal, Special issue, Kinshasa: 25 July 2014.

3.80. According to the authorities, the DRC has never taken any contingency measures. Its latest notification to the WTO in this connection dates from 2006.[36]

3.1.9 Standards and technical regulations

3.81. Standardization policy falls within the purview of the Ministry responsible for industry. At operational level, the OCC oversees compliance with standards. The National Standardization Committee includes representatives of several agencies, among them the OCC, and is chaired by the Ministry responsible for industry. The Congolese Control Office (OCC) is the national enquiry point for standardization and certification. The DRC does not have its own accreditation service. The OCC has the task of ensuring compliance with the obligations assumed under the Agreement on Technical Barriers to Trade.[37] However, no notifications concerning standards and technical regulations have been made to the WTO.

3.82. Pending enactment of the law on standardization in the DRC, standardization and metrology policy and management remain in the hands of the Ministry responsible for industry, which draws up an annual programme and makes it available to the National Standardization Committee (CNN). Standards and technical regulations are introduced at the request of suppliers, consumers or the Government through the ministry concerned. Draft standards are prepared by the sectoral technical standardization committees set up by the Minister responsible for industry, at the proposal of the CNN, in cooperation with the stakeholders in their respective areas of competence. However, according to the authorities, the level of commitment of the main players remains low. Standards are adopted by the CNN. Only the Minister responsible for industry is empowered to publish them, by issuing an order, and, where appropriate, may make them mandatory in the DRC.

3.83. According to the authorities, the DRC currently has 271 standards concerning the following: foodstuffs (141), sizes and units of measurement (14), steel (44), timber (13), cement (11), conformity assessment and quality management (1), electrical engineering (15), and plastic packaging (6). Salt and salted fish are the only products with technical regulations drawn up in the DRC; cement is subject to European standards and the remaining standards have been harmonized with the COMESA standards adopted in 2008, 2009 and 2015. All these standards are mandatory in the DRC, in accordance with Ordinance No. 75-271 of 22 August 1975 creating the National Standardization Committee.

3.84. The Congolese Control Office (OCC) is responsible *inter alia* for carrying out controls on imports and exports and domestic markets, including those relating to technical regulations and standards in the DRC. The OCC was established by Ordinance-Law No. 74-013 of 10 January 1974 and is a national government agency with its own legal status. It was converted from a State-owned enterprise into a government institution of a scientific and technical nature and its new status, missions, activities and financing were clarified in Decree No. 09/42 of 3 December 2009. According to this Decree, it is the task of the OCC, as a third party, to assess conformity, meaning inspection, certification, testing or analysis, metrology and technical controls with reference to national, regional and/or international standards. The OCC is approved and recognized throughout the DRC for the purpose of issuing certificates of conformity with standards and technical regulations. The Directorate of Standardization of the Ministry responsible for industry also acts as technical secretariat for the National Standardization Committee, composed of representatives of the various parties concerned.

3.85. Although only salt and salted fish are subject to national technical regulations, it is mandatory for goods imported into the DRC to be inspected at the border or prior to shipment from the country of provenance. Control of conformity with standards and technical regulations is compulsory for both domestic and imported products. Control involves the following: inspection on the production site or at the border; laboratory tests (chemical, microbiological, physical and mechanical) on samples taken either at the end of the production chain when domestic production is being inspected or upon unloading or destuffing, in the case of imports.

[36] WTO documents G/ADP/N/139/Add.1/Rev.1 of 18 October 2006 and G/ADP/N/145/Add.1 of 18 October 2006.

[37] WTO document G/TBT/2/Add.79 of 15 July 2004.

3.86. Any product covered by a certificate of conformity with the standards or technical regulations in force may still be subject to further conformity inspection when it is imported into the DRC, unless there is either a mutual recognition agreement or an explicit subcontracting or cooperation arrangement between the body which conducted the conformity assessment abroad and the OCC. Even if such an agreement or arrangement exists, the OCC may conduct further controls if it considers, *inter alia*, that there is a risk that the product may have deteriorated during transport. The OCC has a technical control and metrology department. The scientific and industrial metrology laboratory is in the process of being accredited to ISO 17025, with support from the German Metrology Institute (PTB). However, verification of temperature, pressure and electrical measurements are not yet possible.

3.87. The OCC is an active member of ISO, the IEC and ARSO (ORAN). It is the enquiry point for standards and has a centre for the dissemination of standards and certification. The OCC has signed mutual recognition agreements with two countries: Kenya (Kenya Bureau of Standards (KeBS) for standardization and conformity assessment) and Zimbabwe (Standards Association of Zimbabwe (SAZ) for certification). The agreement with Zimbabwe is in the process of being renewed. Inspection prior to shipment from the country of provenance is the responsibility of a subcontractor, the company BIVAC, whose contract expired on 15 November 2015 and has been extended to 14 November 2016.

3.88. The DRC does not have a national accreditation system but participates, through the OCC, in the Standards, Quality Assurance, Accreditation and Metrology (SQUAM) programme launched by the SADC in 2000. This programme has provided the subregion with a technical framework for quality management involving accreditation, certification, standardization and metrology, with a view to extending it to the legal and regulatory level.

3.89. At importation, the OCC makes various charges, which may amount to 2% of the c.i.f. value, for the various mandatory controls, which cover about 3,500 of the DRC's tariff lines. Details of the entire range of OCC invoicing and levies are provided in Table A3.3. These levies are imposed several times on the same goods by the same or several bodies, are generally *ad valorem* and can hardly be regarded as payment for services rendered.

3.90. The DRC requires multiple forms of assistance to fill the gaps in the area of standards and technical regulations.

3.1.10 Sanitary and phytosanitary measures

3.91. The Ministry of Trade continues to coordinate activities relating to the adoption of sanitary and phytosanitary measures in the DRC; it also serves as secretariat and national focal point for regional and international harmonization in the field. An SPS enquiry point has been set up within the Ministry of Trade; the Ministry is also responsible for submitting the relevant notifications to the WTO's SPS Committee. Since the previous review in 2010, no measures (either ordinary or of an emergency nature) have been notified.

3.92. There is considerable overlapping in sanitary controls, particularly between the services of the Ministry of Trade; the OCC; the Ministry of Agriculture, Fisheries and Livestock; and the Ministry of Health. The DCR is aware of this and is seeking solutions to improve the sharing of responsibilities, after receiving assistance from the FAO. Meanwhile, an Interministerial Sanitary and Phytosanitary (SPS) Commission has been set up by Ministerial Order No. 013 of 13 August 2011 to ensure a better distribution of roles among these various departments. This Commission, which is chaired by the Secretary-General for Trade and for which the OCC is acting as secretariat, consists of the Ministries responsible for trade, small and medium-sized enterprises, the national economy, agriculture, fisheries and livestock, public health, and the environment, nature conservation and tourism; the OCC; the Directorate-General of Customs and Excise (DGDA); and the Congolese National Police (Border Police).

3.93. The Ministry of Agriculture, Fisheries and Livestock (MAPE) is the competent authority for animal and plant health.[38] It draws up and implements regulations on animal and plant protection, including the import and export control of plant material and phytosanitary, veterinary and food

[38] Law No. 05/162 of 18 November 2005.

products. Its tasks include issuing the phytosanitary certificates needed for the export of plants, plant products or foodstuffs of plant or mineral origin, and controlling the distribution of phytosanitary and veterinary products. The Ministry of Health is responsible for health monitoring at the border and public health measures. The Ministry of Trade is in charge of verifying compliance with the provisions of agreements on technical barriers to trade.

3.94. In the DRC, all phytosanitary products must be approved for import, packaging, sale on the domestic market or use. The import of plants, plant products or foodstuffs of animal origin requires a permit issued by the relevant services in the Ministry responsible for agriculture. They must be accompanied by a sanitary or phytosanitary certificate from the country of origin. Upon the payment of charges that vary according to value and quantity, these products are subjected to sanitary or phytosanitary control, in the same way as products for export.[39]

3.95. If the animals, plants, animal or plant products or foodstuffs of animal or plant origin turn out to be contaminated, the competent services decide, as the case may be, to place them in quarantine, treat them, reject them or destroy all or part of them. The cost of implementing these measures is borne by the importer or exporter.

3.96. The authorities have indicated that there are no legal provisions on genetically modified organisms (GMOs), but that a draft law is under consideration.

3.97. All goods of animal or plant origin must be inspected at importation and exportation, whatever the country of origin or destination. Sampling and physico-chemical and bacteriological analyses are performed by the OCC's Plant and Animal Quarantine Service (SQAV), or by the inspection services. According to the OCC, during the period since 2010, SPS analyses were carried out on an average of 45,000 samples annually, of which 424 per year were found to be non-compliant.

3.98. The DRC is a member of the World Organisation for Animal Health, the FAO/WHO Codex Alimentarius Commission and several conventions at the African and global levels. It acceded to the International Plant Protection Convention (IPPC) on 27 April 2015.

3.99. The DRC has concluded two mutual recognition agreements, with Kenya and Zimbabwe, in certain areas of conformity assessment and standardization, but no mutual recognition agreements specifically concerned with SPS measures.

3.1.11 Requirements with regard to packaging, marking and labelling

3.100. National provisions apply to packaging whether it is manufactured or used locally or imported. They are intended to guarantee people's personal safety and security and protect the environment. Accordingly, materials used for packaging must not present any risk of leakage of the substances they contain and, if their condition deteriorates over time, the packaging must be clearly labelled to that effect. The legislation also provides that the packaging must be reusable, recyclable and/or biodegradable. According to the authorities, the DRC's current legislation was drawn up in conformity with the technical regulations of ISO and the World Packaging Organisation (WPO). The Packaging Standardization Directorate (DNE) in the Ministry of Transport and Communications is responsible for the monitoring and implementation of the regulations on packaging.[40]

3.101. According to the authorities, labelling requirements are based, in particular, on the international recommendation OIML R 79/Labelling requirements for prepackaged products. Thus, food and other edible products may only be placed on the Congolese market if their labelling provides certain basic information, so-called "compulsory information", in French and English or one of the four national languages understood by the Congolese consumer. The labelling on any food product must include: a description of the product; a list of all the ingredients (in decreasing order in terms of quantity); the use-by and the best-before date; the quantity of the product expressed in terms of volume or weight; the volume of alcohol (where appropriate); the batch

[39] Interministerial Orders No. CAB/MIN/AGRI/2013 and No. 1016.CAB/MIN/FINANCES/2013 of 3 September 2013 establishing the rates of the duties, taxes and charges to be levied at the initiative of the Ministry of Agriculture.

[40] Ministerial Order No. 409/CAB/MIN/TC/0082/2006 of 18 July 2006.

number; and the name or corporate name and place of business of the manufacturer, packer or seller.[41]

3.102. The DRC also applies the recommended international code of practice – General Principles of Food Hygiene (CAC/RCP 1-1969/2003) – and, in addition, has adopted several standards that specify requirements for labels and labelling, in particular, the following standards of the Codex Alimentarius: Codex STAN 1-1985 (Revision 1-1991), general standard for the labelling of prepackaged foods, Codex STAN 108-1981 (Revision 1-1997), standard for prepackaged natural mineral waters suitable for human consumption, and Codex STAN 227-2001, general standard for bottled/packaged drinking waters (other than natural mineral waters).

3.103. In addition, there are several other regulations under Ministerial Order No. 1250/CAB/MIN/S/CJ/KIZ/56/2003 of 16 May 2003 regulating cosmetic products and other toiletries; Ministerial Order No. 012/CAB/MINECI/2001 of 31 March 2001 on approval of standards for wheat flour; the Interministerial Order prohibiting non-biodegradable packaging; and the Ministerial Order regulating the manufacture of alcoholic beverages. Food and other edible products may not be imported if, on the date of arrival at the point of entry into the DRC, less than a quarter of their shelf life remains; for pharmaceutical and cosmetic products, the corresponding threshold is 50% of the shelf life, with a minimum of six months.

3.1.12 Other measures

3.104. Article 1 of Law No. 14/023 of 7 July 2014 establishing the rules relating to the conditions and procedures for rescuing an industrial enterprise in difficulty makes the granting of State support conditional upon "development of the use of local raw materials".[42] However, this law is not yet being applied.

3.105. Moreover, the DRC has signed countertrade agreements with some of its partners (for example, with China). Except for hydrocarbons, the DRC does not have any arrangements for building up and holding buffer stocks/compulsory reserve stocks.

3.106. According to the authorities, the DRC applies the trade sanctions adopted by the United Nations and the regional bodies to which it belongs.

3.2 Measures directly affecting exports

3.2.1 Registration and customs procedures

3.107. The formalities which have to be completed in order to import goods for commercial purposes also apply to exports (Section 3.2.1 above). The export of precious stones and forest products is subject to specific approval conditions. Only the holders of mining titles, approved purchasing offices and organized and approved mining cooperatives can export precious stones and precious and semi-precious metals.[43] The Centre for Valuation, Expertise and Certification (CEEC), a State body, values gold and diamonds for purposes of applying export duties and taxes.[44] The FERE (a cargo tracking note) is intended for exports but is not yet in use.

3.108. A customs declaration is mandatory for all exports. The conditions of recourse to approved customs brokers are the same for exports as for imports. Exports require the prior signature of a declaration with an approved bank.

3.109. Export and re-export earnings must be repatriated within a maximum of 30 calendar days from the date of shipment of the goods, except in the case of gold and diamonds produced on a small scale, for which the earnings must be received by the bank within 10 days of the date of shipment. The earnings do not have to be converted.

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[41] Viewed at: http://www.dzm.hr/_download/repository/direktive/OIML_R_79.pdf.

[42] Democratic Republic of the Congo, Office of the President of the Republic (2014). Law No. 14/023 of 7 July 2014 establishing the rules relating to the conditions and procedures for rescuing an industrial enterprise in difficulty, Official Journal, Special issue, Kinshasa: 25 July 2014.

[43] Article 85 of the Mining Code for mining titles and Article 120 for purchasing offices.

[44] The CEEC is the government agency responsible for the application of the Kimberley Process in the DRC.

3.2.2 Export taxes and levies

3.110. Goods exports are subject to several exit duties and taxes ranging from 1 to 10%, in particular those on coffee (1%); fresh water (1%); gold and diamonds produced on a small scale (1.5%); industrially produced gold and diamonds (3%); electricity (5%); mineral products and their concentrates (10%); and mineral oils (5%). The tax on timber exports depends on the species and the degree of processing (Section 4.2)[45]: exported logs are taxed at 10%; and edged sawnwood at 5%.[46] The tax base is the f.o.b. value. However, Article 73 of Law No. 11/025 of 24 December 2011 places a ceiling of 0.25% on all of the taxes levied on all exports of agricultural products.

3.111. Exports of certain types of timber (forest species for promotion) are subject to a charge of 2% of the ex-works (EWK) value per cubic metre of timber in the rough exported, which goes to the Ministry of the Environment. There is also a mining export levy of 0.5% on iron and ferrous metals, 1% on industrial metals, other metals and solid hydrocarbons, 2% on non-ferrous metals, 2.5% on precious metals, and 4% on precious stones (gold, diamonds), for products covered by the Mining Code, in place of the 10% tax on minerals. The basis for calculating these charges is the selling price less the costs of analysis, insurance, transport, and marketing; the deductible costs may not exceed 15% of the market value (Mining Code, Article 241).

3.112. Since the previous review in 2010, the principal innovations with regard to export duties and taxes have been the introduction of VAT, at the zero rate for exports, and taxation of the goods exported in accordance with their real value on world markets. In principle, the declared value may not be lower than the reference values regularly published by the DGDA on the basis of market price data compiled from world prices.[47]

3.2.3 Export prohibitions, restrictions and controls

3.113. Goods subject to prohibitions and restrictions at importation are also subject to them at exportation (Section 3.2.1 above).[48] All exported and re-exported goods are subject to the export declaration. At exportation, the goods undergo controls carried out by the OCC, which charges fees for its services (Table A3.3).

3.114. The quantitative restrictions (including prohibitions) and controls applicable to exports stem mainly from the treaties to which the DRC is party.[49] However, for economic reasons, restrictions are maintained on exports of unrefined mineral ores and logs, with the operators being required to carry out first-stage processing on Congolese soil.

3.115. In principle, domestic legislation authorizes the export of unrefined mineral ores only on an exceptional basis. Thus, the owner of the mineral rights must apply to the Directorate of Mines for authorization to export mineral ore for processing or marketing, subject to the payment of filing fees amounting, in Congolese francs, to the equivalent of US$280 for mineral substances classified in the mining category and US$200 for those classified in the quarrying category.[50] In his application, the owner of the rights must demonstrate the advantages of such a transaction for the DRC. Moreover, he must prove that the ore cannot be processed in DCR territory at lower cost. In practice, however, this export restriction is rarely observed by the country's mining companies.

3.116. Timber may only be exported in the form of logs by owners of duly authorized operational processing units and national foresters for a maximum period of ten years from the date on which

[45] Order No. 6383/MEFB of 31 December 2002 and Order No. 6387/MEFB of 31 December 2002.

[46] The Customs Code of the DRC.

[47] The base values for the application of rates are determined by the National Commission for Reference Prices. They correspond to the prices achieved abroad as represented by the average of the known prices net of all costs necessarily incurred for the delivery, sale and marketing of the goods and customs duties plus any premiums and bonuses granted. If the value of the goods is not determined in an Order, the value to be declared for the purpose of applying export duty is the normal value of the goods at the time they leave DRC territory, i.e. the value at the border or at the port or airport of shipment.

[48] Democratic Republic of the Congo, Ministry of Finance, Directorate-General of Customs and Excise (DGDA): Ordinance-Law No. 011/2012 of 21 September 2012 on the Tariff of Import Duties and Taxes and Ordinance-Law No. 012/2012 of 21 September 2012 on the Tariff of Export Duties and Taxes.

[49] Basel Convention on the Control of Transboundary Movements of Hazardous Waste, CITES, etc.

[50] Decree No. 038/2003 of 26 March 2003 containing the mining regulations.

the exploitation commenced and under a quota that must not exceed 30% of their total annual output.[51] Moreover, forestry operators must set up sawmills at the various tree-felling sites in order to create jobs.

3.117. The DRC has participated in the Kimberley Process (KP) concerning the traffic in rough diamonds since 2003.[52] The Centre for Valuation, Expertise and Certification (CEEC) is the service designated by the State for this purpose, in particular, for valuing and certifying exported gold and batches of rough diamonds, as well as for verifying the traceability of the diamonds produced in the country. A fee of 2.5% of the value is charged for this service.

3.118. Special permits are required to export precious substances and species of wild fauna and flora listed in the appendices to the CITES. The DRC has not signed an export self-limitation agreement and does not apply voluntary export restrictions.

3.2.4 Export subsidies, promotion and support

3.119. In addition to the zero rate VAT regime for exports, the Customs Code provides for various procedures that allow importation with suspension of duties and taxes in order to boost exports, in particular, the inward processing regime, for which only persons established in the DRC are eligible. Moreover, some goods and economic operators, mainly in the mining sector, can benefit from concessions on export duties and levies, including reduced rates (Section 2).

3.120. The DRC has not submitted any notifications to the WTO under the Agreement on Subsidies and Countervailing Measures. According to the authorities, the State is not involved in financing exports, has no export financing mechanism and does not grant any export subsidies. The DRC does not have any export guarantee and insurance scheme. There is no government body responsible for export promotion. However, firms can promote their products at the annual Kinshasa International Fair (FIKIN).

3.121. There are currently no free zones in the DRC.

3.3 Measures affecting production and trade

3.3.1 Incentives

3.122. The DRC has not notified the WTO of any subsidies or aid. The principal support measures in place concern the advantages accorded to approved enterprises under the Investment Code (Section 2.4), the Forest Code (Section 4.2), the Mining Code (Section 4.3), and the Hydrocarbons Code (Section 4.3). Concessions are also granted to promote SMEs (Section 4.4). In addition, there are various measures which the State employs to support agriculture (Section 4.2). Public utility services such as electricity (Section 4.3), water (Section 4.3) and transport (Section 4.5), also benefit from State support. The DRC grants exemptions for imports of certain specific inputs and capital goods (Section 3.1.5). Moreover, it pursues a policy of production subsidies, in particular, through reduced retail prices for fuel, electricity and water.

3.123. Law No. 14/022 of 7 July 2014 governs the special economic zones (ZES). A regulatory authority for the ZES was set up by Decree No. 15/007 of 14 April 2015. By way of experiment, a pilot ZES is being established in Maluku, in Kinshasa city-province.[53] The following activities are being promoted there: agro-industry; production of construction materials; metallurgical processing; and packaging production.

3.124. In general, enterprises eligible for a ZES will not be subject to an export obligation and will enjoy the benefits of the Investment Code, as well as other advantages such as security of tenure, single window for the payment of taxes within the ZES, simplified customs procedures, simplified tax payment procedures, exemption from the payment of security in the event of an appeal against tax rulings, customs clearance of imports destined for ZES within their perimeter, and

[51] Law No. 011/2002 of 29 August 2002 on the Forest Code.
[52] Viewed at: http://www.kimberleyprocess.com.
[53] Prime Ministerial Decree No. 12/021 of 16 July 2012 establishing the Maluku pilot ZES.

recourse to arbitration in the event of disputes. Moreover, tax, customs and parafiscal concessions for ZES developers are to be negotiated within the context of public-private partnership contracts.

3.3.2 Competition and price control policy

3.125. Competition and price control policy in the DRC is the responsibility of the Ministry in charge of the economy. The price structures are determined by interministerial commissions.

3.126. The legislation on the DRC's competition regime is obsolete. It can be reduced to the following group of laws and regulations: Ordinance-Law No. 41-63 of 24 February 1950 on unfair competition; Decree-Law of 20 March 1961 on prices; and Ministerial Order No. DENI/CAB/06/013/87 of 26 May 1987 on the establishment and functioning of the Competition Commission.

3.127. Intended as a strictly repressive measure, Ordinance-Law No. 41-63 of 24 February 1950 has only five Articles containing provisions distributed as follows: a provision that allocates responsibilities and establishes the capacity to act and interest in matters of unfair competition (Article 1); a non-exhaustive list, for guidance purposes, of acts contrary to honest practice in trade and industry (Article 2); determination of the persons able to act with a view to implementing Article 3 (Article 4); and a final provision (Article 5).

3.128. Decree-Law of 20 March 1961, as amended and supplemented by Ordinance No. 83-026 of 12 September 1983, determines the modalities of economic control (prior and *post facto*), as well as the nature of the offences relating to prices and supply. Set up within the Ministry of the National Economy by Ministerial Order No. DENI/CAB/06/013/87 of 26 May 1987, the Competition Commission was given the task of seeking out, investigating and sanctioning restrictions on free competition, but has not functioned in practice.

3.129. Thus the present competition legislation is ill-adapted to the economic realities of the times (economic concentration, anticompetitive practices, intellectual property, competitiveness, etc.). The Government is endeavouring to modernize competition law by introducing a new draft law on the subject.

3.130. Regulatory authorities play a role in the field of competition in certain sectors of the economy, such as electricity and telecommunications, where a regulatory authority is responsible for subjecting the basic and value added services to competition. Thus, Framework Law No. 013/2002 of 16 October 2002 on telecommunications established the Post and Telecommunications Regulatory Authority of the Congo (ARPTC). Law No. 14/011 of 17 June 2014 on the electricity sector in the DRC provides for a Regulatory Authority for the Electricity Sector (ARE), but this authority has not yet been set up.

3.131. In principle, prices are determined by the free play of competition, except under the approval regime for hydrocarbons, water, electricity and public transport. However, to improve the country's supply channels for fast-moving consumer goods, a committee for monitoring the prices of staple products was set up by Order No. 029/CAB/MINECOM/2013 of 2 October 2013.

3.132. The DRC's price control system has remained unchanged since the previous TPR in 2010. Under the legislation in force[54] there are two aspects to price regulation: prior and *post facto* price control. However, according to the authorities, problems of stocks, prices and distribution are resolved in consultation with all the stakeholders, both public and private.

3.133. A number of products and services, deemed to be strategic, are subject to prior price control (price setting) by the Ministry responsible for the economy, in consultation with the operators. This is the case with petroleum products, water and electricity (Section 4.2); telecommunications and postal services (Section 4.4.2); and transport (Section 4.4.4). There is also provision for the regulation of the prices of cereals, frozen food, cement, sugar, and wheat flour.

[54] Decree-Law of 20 March 1961 and Ordinance No. 83/026 of 12 September 1983.

3.134. The selling prices of other products and services are determined by those who offer them for sale. They do not have to be approved, but must be notified to the Ministry responsible for the economy for purposes of *post facto* control, on the basis of their constituents.

3.135. The regulations in force limit the margins that wholesalers and retailers can incorporate in their selling prices. Thus, the profit margins incorporated in the selling price of an industrial product are limited to 20% for industrial-scale and 25% for small-scale production.[55] For imports, the profit margin is 10% for wholesalers and 20% for retailers.[56]

3.3.3 State trading, State-owned enterprises and privatization

3.136. The DRC has not yet notified the WTO of any State trading enterprises within the meaning of Article XVII of the GATT. Nevertheless, some commercially active State-owned or private enterprises have monopoly status (Section 4).

3.137. The finding that the State-owned enterprises were in decline led to the conclusion that they were in urgent need of reform. The reform of the State-owned enterprises has two main objectives, namely: (i) to instil a new dynamism so as to enhance their output and profitability potential and the quality of the services they provide for the public and to help improve their competitiveness and that of the economy as a whole; and (ii) to ease the burden on the Treasury by eliminating the balancing subsidies they have been granted.[57]

3.138. There have been no changes in the regulatory and institutional framework of State-owned enterprises or privatization since the DRC's previous TPR.[58] The Steering Committee for the Reform of State-owned Enterprises (COPIREP) is responsible for implementing the reform programme, while the mission of the High Council for the State Portfolio (CSP) is to assist the Government in administering and managing the State portfolio and in assessing the performance of authorized agents of the State; to advise the Minister, in particular with regard to the acquisition and/or disposal of holdings, and to carry out specific missions to assess State-owned enterprises and the performance of authorized agents, etc.[59]

3.139. According to the authorities, first of all, the State-owned enterprises concerned were reorganized to ensure that they were properly managed, while still remaining under State ownership. The reorganization was proposed on a case-by-case basis following a comprehensive diagnostic study of the enterprise and the option for reorganization, endorsed by the Government on a proposal from COPIREP. The next phase saw the State's possible withdrawal and the involvement of private partners to upgrade the management and provide the necessary financing. Privatization would take the form of a concession, a management contract or a subcontracting arrangement.

3.140. The State-owned enterprises concerned have been converted into commercial companies; converted into public institutions or public services so as to resolve the problem of the legal status

[55] Order No. 017/CAB/MENI/PME/96 of 1 July 1996 on measures for implementing Decree-Law of 20 March 1961 and Order No. BCE/ENI/0018/76 of 30 March 1976 on the method of calculating import prices.

[56] Order 020/CAB/MINECOCOM/2012 of 18 September 2012.

[57] Law No. 08/007 of 7 July 2008 on general provisions concerning the conversion of State-owned enterprises.

[58] The legal and institutional framework governing State-owned enterprises includes the four laws enacted by the President of the Republic in July 2008: Law No. 08/007 of 7 July 2008 on general provisions concerning the conversion of State-owned enterprises; Law No. 08/008 of 7 July 2008 on general provisions concerning the withdrawal of the State from State-owned enterprises; Law No. 08/009 of 7 July 2008 on general provisions applicable to public institutions; and Law No. 08/010 of 7 July 2008 establishing the rules governing the organization and management of State-owned enterprises, plus the implementing decrees issued by the Prime Minister: Decree No. 09/11 of 24 April 2009 on transitional measures concerning the conversion of State-owned enterprises; Decree No. 09/12 of 24 April 2009 establishing the list of State-owned enterprises converted into commercial companies, public institutions and public services; Decree No. 09/13 of 24 April 2009 on the dissolution and liquidation of six State-owned enterprises; Decree No. 09/14 of 24 April 2009 concerning the creation, organization and functioning of a public institution called the "Special Portfolio Fund"; and Decree No. 011/28 of 7 June 2011 on the conversion of the Centre for Valuation, Expertise and Certification of Precious and Semi-Precious Mineral Substances (CEEC) into a public institution.

[59] Decree No. 09/15 of 24 April 2009 on the creation, organization and functioning of a public institution called the Steering Committee for the Reform of State-Owned Enterprises (COPIREP); and Decree No. 13/036 of 3 September 2013 on the organization and functioning of the High Council for the State Portfolio (CSP).

of institutions that are classified as State-owned enterprises but whose activities are in fact an extension of those of government; or simply dissolved or liquidated, insofar as they were insolvent or their economic activities were no longer justified. Thus, out of 51 State-owned enterprises, 20 have been converted into commercial companies, 21 into public institutions and 4 into public services, while 6 have been liquidated (Table 3.7).

3.141. Since the previous TPR in 2010, 21 State-owned enterprises have been converted into public institutions. Their conversion is now complete. For each of them, a decree establishing the new regulations has been adopted. In the case of the other 20 enterprises that were to be converted into commercial companies, the conversion process involved two phases: a legal phase and a financial and accounting phase. After these 20 enterprises had had their provisional minimum equity capital fixed, they adopted their new articles of association, which were published in the Official Journal on 29 December 2010.

Table 3.7 List of State-owned enterprises and public institutions

State-owned enterprise	Sector
Converted into public institutions	
Office national du café: ONC	Agriculture
Régie des voies fluviales: RVF	Transport
Office de gestion du fret maritime: OGEFREM	Transport
City-Train	Transport
Agence congolaise de presse: ACP	Media
Radio télévision nationale congolaise: RTNC	Media
Fonds de promotion de l'industrie: FPI	Financial
Institut national de sécurité sociale: INSS	Financial
Office des routes: OR	Construction
Office des voiries et drainage: OVD	Construction
Office national du tourisme: ONT	Services
Office de promotion des petites et moyennes entreprises du Congo: OPEC	Services
Foire internationale de Kinshasa: FIKIN	Trade
Office congolais de contrôle: OCC	Trade
Institut national des statistiques: INS	Research
Institut national d'études et de recherches agronomiques: INERA	Research
Institut congolais pour la conservation de la nature: ICCN	Nature conservation
Institut des jardins zoologiques et botaniques du Congo: IJZBC	Nature conservation
Institut des musées nationaux du Congo: IMNC	Culture and the arts
Fonds de promotion culturelle	Culture and the arts
Institut national de la préparation professionnelle: INPP	Training
Converted into public services	
Office national de développement de l'élevage: ONDE	Agriculture
Centre d'évaluation, d'expertise et de certification des substances minérales précieuses et semi-précieuses: CEEC	Mining
Office de gestion de la dette publique: OGEDEP	Financial
Office des douanes et des accises: OFIDA	Financial
Converted into commercial companies	
Générales des carrières et des mines: GECAMINES	Mining
Société de développement industriel et minier du Congo: SODIMCO	Mining
Office des mines d'or de Kilo-Moto: OKIMO	Mining
Entreprise minière de Kisenge Manganèse: EMK-Mn	
Régie de distribution d'eau: REGIDESO	Energy
Société nationale d'électricité: SNEL	
Congolaise des hydrocarbures: COHYDRO	
Société sidérurgique de Maluku: SOSIDER	Industry
Société africaine d'explosifs: AFRIDEX	
Société nationale des chemins de fer du Congo: SNCC	Transport
Office national des transports: ONATRA	
Régie des voies aériennes: RVA	
Régie des voies maritimes: RVM	
Lignes aériennes congolaises: LAC	
Compagnies maritimes du Congo: CMC	
Chemin de fer des uélés: CFU	
Office congolais des postes et télécommunications: OCPT	Telecommunications
Caisse d'épargne du Congo: CADECO	Financial
Société nationale d'assurance: SONAS	
Hôtel Karavia: KARAVIA	Services

State-owned enterprise	Sector
Liquidated	
Cacaoyer du Bulu: CACAOCO	Agriculture
Palmeraie de Gosuma: PALMECO	Agriculture
Cotonnière du Congo: COTONCO	Agriculture
Complexe sucrier de Lotokila: CSL	Agriculture
Caisse de stabilisation cotonnière: CSCO	Agriculture
Office des biens mal acquis: OBMA	Services

Source: Official Journal – Special issue, 30 April 2009, and information provided by the authorities.

3.142. In the DRC, the State may withdraw from economic activities in one of the following ways: (i) by selling shares in all or part of the assets or all or part of the equity capital of a State-owned enterprise and (ii) through public-private partnerships (concession, lease, management contract, subcontracting arrangement, technical assistance, etc.). However, withdrawal remains based on a partnership between the State and the private sector.

3.143. In 2015, none of the 20 commercial companies resulting from the conversion process was the subject of a State withdrawal by transfer of ownership. In fact, State-owned enterprises may be recapitalized by the participation of foreign or domestic private partners in their capital only at the end of the conversion process and in accordance with the withdrawal option that the Government has defined for each enterprise, with account for its nature and the economic and social impact of its activities.

3.144. Moreover, the Congolese legislator has set preliminary conditions for State withdrawal from an enterprise. These relate, in particular, to the evaluation of the net worth of the enterprise concerned; the determination of the strategic sectors and the share that the State intends to retain; seeking the most favourable terms; the promotion of local entrepreneurship; the rights of the employees and all other social aspects; the ending of the monopoly and the prohibition of abuse of a dominant position; diversifying the State portfolio and making it profitable; and the recovery of the enterprise concerned.

3.145. According to the authorities, the following actions have been taken: the Hotel Karavia has been put out on concession for 15 years to the LONRHO group; part of the Société industrielle et sidérurgique (SOSIDER), the Maluku iron and steel complex, has been put out on concession to Global Steel ITCM; the State has sold its shares in the telecommunications company CCT to Orange Telecom; and the State has also signed an ROT concession contract for the former CCIC building, which has been converted into the Hotel Kempinski Fleuve Congo (Kinshasa). Moreover, 58% of the State's shares in the National Cement Works (CINAT) have been sold to the Nova Cimangola group; and 27 mining sites of the Sakima Mining Company have been put out on concession to a new company whose name is not known. Concession transactions are also being prepared at the Transport and Ports Company (SCTP) and the Congolese National Railway Company (SNCC), as well as a partial sale of shares to the Congolese Savings Bank (CADECO).

3.146. The State has also signed service and stabilization contracts for certain enterprises (Table 3.8).

Table 3.8 List of State-owned enterprises that have signed services and stabilization contracts

Enterprise	Service and stabilization contract
Water Supply Board (REGIDESO)	The Congolese Government has signed a service contract with the SDE/Finagestion grouping
National Electricity Company (SNEL)	The Congolese Government has signed a service contract with the firm Manitoba
Congolese National Railway Company (SNCC)	In 2008, the Congolese Government signed a service contract with the firm Vecturis and the contract is still in effect
Transport and Ports Company (STPC) (formerly ONATRA)	A technical assistance contract between COPIREP and PROGOSA was signed on 2 June 2008 and ended on 2 June 2010
Air Navigation Board (RVA)	A technical assistance contract between COPIREP and the firm ADPI was signed on 14 October 2008 and ended in 2010. The operator made experts in management functions available to the RVA, in particular to manage it over a period of 26 months, stabilize it and prepare for its restructuring

Enterprise	Service and stabilization contract
Gécamines	A technical assistance contract between COPIREP and the SOFRECO-JT Boyd grouping was signed on 18 January 2006 and ended in 2008. The operator made experts in management functions available to Gécamines to stabilize its industrial activities, reorganize the company's everyday management and draw up an emergency plan for the rapid re-startup of production by proposing a definitive plan for its restructuring

Source: WTO Secretariat, on the basis of information provided by the Congolese authorities.

3.147. The implementation of the privatization programme for the period 2010-2015 continues to experience delays. The high cost of converting State-owned enterprises into commercial companies is the main factor responsible for slowing down the reform programme. The costs of having asset positions, the opening balance sheet and the accounts certified by foreign firms are judged by some enterprises to be too high. State-owned companies operating in the "strategic" sectors will not be subject to the reform process. However, a list of these enterprises is not available.

3.3.4 Government procurement

3.148. The DRC has not signed the WTO's Plurilateral Agreement on Government Procurement nor is it an observer.

3.149. The regulatory and institutional framework for government procurement has undergone extensive reform since the DRC's previous TPR.[60] It is based on Law No. 10/010 of 27 April 2010 on government procurement and seven implementing decrees.[61]

3.150. The new regime has introduced profound changes in the system of management of government procurement in the DRC, in particular by abandoning adjudication and adopting the principle of separation of the functions of regulation, control and management of the awarding of contracts by the State, local authorities and other public contractors.

3.151. The Law on government procurement (the Code) establishes the rules governing the award of government procurement contracts and public service concessions; execution; supervision; and the settlement of disputes relating to the procurement of works, supplies, services and intellectual services by the State, the provinces, decentralized territorial entities, State-owned enterprises and public institutions. Provincial edicts organize the specific provisions relating to contracts and public service concessions awarded by the provinces and decentralized territorial entities. These rules provide for freedom of access to government orders, equal treatment for bidders, allowance for national expertise and skills, and respect for ethics and transparency in the procedures (Articles 1 to 3 of the Law). Moreover, Article 4 of the Law determines the conditions relating to external financing contracts. Contracts awarded under international financing agreements or treaties are subject to the provisions of the Law, insofar as they are not inconsistent with the provisions of the agreements or treaties in question.

3.152. From the institutional viewpoint, the legislation enshrines the principle of separation of the contract award and execution function, the control and regulatory function and the contract approval function. The project management and contract award function is performed by the contracting authorities, which must include public projects and contracts management units

[60] WTO document WT/TPR/S/240/Rev.1 of 29 March 2011.

[61] The Democratic Republic of the Congo updated its legal framework governing the award of government procurement contracts by enacting Law No. 10/010 of 27 April 2010 on government procurement (repealing Ordinance-Law No. 69-054 of 5 December 1969) and adopting the following seven implementing decrees: (i) Decree No. 10/21 of 2 June 2010 on the creation, organization and functioning of the Regulatory Authority for Government Procurement; (ii) Decree No. 10/22 of 2 June 2010 on the procedural manual for the law on government procurement; (iii) Decree No. 10/27 of 28 June 2010 on the creation of the Directorate-General for the Control of Government Procurement; (iv) Decree No. 10/32 of 28 December 2010 on the creation, organization and functioning of the Public Projects and Contracts Management Unit; (v) Decree No. 10/33 of 28 December 2010 establishing the procedures for the approval of government procurement contracts and public service concessions; (vi) Decree No. 10/34 of 28 December 2010 establishing the thresholds for the award, control and approval of government procurement contracts; and (vii) Decree No. 12/027 of 25 July 2012 on the appointment of members of the Dispute Settlement Committee of the Regulatory Authority for Government Procurement.

(CGPMP) within their structure.[62] The prior control function is the responsibility of the Directorate-General for the Control of Government Procurement (DGCMP).[63] The regulatory, *post facto* control and dispute settlement function is performed by the Regulatory Authority for Government Procurement (ARMP).[64] The contract approval function is performed by the Prime Minister or the minister for the budget or the supervising minister for contracts awarded by international or national tender or by the supervised services and State-owned enterprises, respectively.

3.153. The Law provides for four types of government procurement contract, namely: contracts for works, supplies, services, and intellectual services. Contracts for works, supplies and services may be awarded by means of an invitation to tender, by single tendering, or by consultation of suppliers. The single tendering method should, in principle, be used only exceptionally. There are five possible ways of inviting tenders: an open invitation where anyone interested in the contract may submit a bid; a restricted invitation, with or without prequalification, where only candidates selected or prequalified by the contracting authority may bid; and an invitation with competition, in connection with the design of a work or architectural project. Use of the restricted invitation procedure must be justified and authorized by the Directorate-General for the Control of Government Procurement. In any event, the contracting authority must ensure that there is competition among all the candidates responding to the invitation. For intellectual services, on the other hand, the Law provides for four methods of selection, namely, that which combines technical quality and cost, that based on technical quality only, that based on a predetermined budget, and the least-cost method.[65]

3.154. Decree No. 010/34 of 28 December 2010 establishing the thresholds for the award, control and approval of government procurement contracts specifies the thresholds applicable to the various methods of awarding contracts (Table 3.9). Government procurement contracts and public service concessions for amounts below the thresholds indicated in Table 3.9 are not awarded by invitation to tender. Nevertheless, in these cases, rules of good practice in government procurement are applied, namely: (i) competition between at least three suppliers; and (ii) publication of the allocation of the contracts by the contracting authority on the ARMP's website and in the government procurement review. Failure to publish renders the contract null and void.

3.155. The Directorate-General for the Control of Government Procurement systematically subjects the procedure for awarding and allocating government procurement contracts and public service concessions to prior control if the value of the contract is equal to or greater than: (i) CDF 200 million for works contracts; (ii) CDF 100 million for contracts for the supply of ordinary goods or services; and (iii) CDF 50 million for intellectual services contracts and public service concessions (Article 14).

3.156. Moreover, the same directorate carries out a preliminary review of the tender documents and requests for proposals in the case of contracts with an estimated value equal to or greater than: (i) CDF 300 million for works contracts; (ii) CDF 200 million for contracts for the supply of ordinary goods and services; and (iii) CDF 100 million for intellectual services contracts and public service concessions (Article 15). The ARMP carries out *post facto* controls on the procedure for awarding and allocating government procurement contracts and public service concessions, whatever the value of the contract or concession (Article 16).

[62] In 2015, at central level, 110 contracting authorities were identified, of which 94 (i.e. 85%) had set up public projects and contracts management units (CGPMP). CGPMPs are also in process of being set up at decentralized entity and provincial levels.

[63] Each province has its own Provincial Directorate for the Control of Government Procurement (DPCMP).

[64] The ARMP is operational at central level, but waiting for express authorization from the Supervisory Authority to deploy in the provinces. The Dispute Settlement Committee has been set up and is operational within the ARMP, as the deliberative body in disputes arising out of the award of government procurement contracts.

[65] Articles 7 to 21 of the Government Procurement Code.

Table 3.9 Thresholds applicable to the various methods of awarding contracts, 2015

	Works	Supplies	Services	Intellectual services
National open invitation to tender	For works exceeding CDF 50,000,000	For supplies exceeding CDF 50,000,000	For services exceeding CDF 50,000,000	For services exceeding CDF 20,000,000
International open invitation to tender	For works exceeding CDF 8,000,000,000	For supplies exceeding CDF 500,000,000	For services exceeding CDF 500,000,000	For services exceeding CDF 250,000,000
Restricted invitation to tender (1)	For works exceeding CDF 100,000,000	For supplies exceeding CDF 100,000,000	For services exceeding CDF 100,000,000	For services exceeding CDF 100,000,000
Award of low-value contracts (2)	For works not exceeding 50,000,000 currency points	For supplies not exceeding 20,000,000 currency points	For services not exceeding 20,000,000 currency points	For services not exceeding 20,000,000 currency points

Note: (1) As soon as they relate to government procurement contracts with a value equal to or greater than CDF 100 million, the restricted invitations to tender provided for in the Law on government procurement become the subject of a prequalification procedure for the purpose of drawing up a restricted list.
(2) Contracts for works, supplies, services and intellectual services below the thresholds established for national invitations to tender are awarded using the simplified formula involving the comparison of at least three invoices set out in Article 9 of Decree No. 010/34.

Source: WTO Secretariat, on the basis of Decree No. 010/34 of 28 December 2010 establishing the thresholds for the award, control and approval of government procurement contracts.

3.157. Contracts awarded by open invitation to tender or in two stages must necessarily be preceded by the publication of a notice of competitive tender in the Official Journal and in a newspaper with a wide circulation in the DRC; the Government Procurement Office must also be notified for the purpose of publishing a notice on the government procurement website.[66] Invitations to tender that are open to foreigners must also be publicized by appropriate means on the international markets. Single tendering contracts must form the subject of a notice of receipt of applications in the Official Journal and in a newspaper with a wide circulation in the DRC. The period for submitting bids or applications may not be less than 20 days or more than 120 days; at the option of the contracting authority, bids and applications may also be submitted online.

3.158. Rejection of a bid may be challenged, within five days of the delivery of the certificate/minutes of public proceedings, before the head of the competent ministerial department (in the case of a contract with the State) or before the executive body of the contracting authority (in other cases). The award decision must be notified to the winning bidder and must expressly indicate the value of the performance bond, payable within a maximum period of six days. Contract awards must be published. Violations of the Government Procurement Code are subject to pecuniary, disciplinary and criminal sanctions, depending on the gravity of the offence.

3.159. The criteria used for evaluating bids may give preference to goods produced in the DRC and/or to services supplied by providers who are Congolese or based in the DRC.[67] The Law specifies that this preference is to consist of an abatement of the financial terms of the bid and that it must be indicated and quantified in the invitation to tender. Preference is also given to a foreign bidder that plans to subcontract 30% of the total value of a contract for works, supplies or services to a DRC enterprise or to use 40% of DRC nationals in the key team of experts. Such a bidder will then be accorded a preference margin of 5%, again in the form of an abatement of the financial terms of the bid. The evaluation criteria and the preference margin may also be designed to favour goods and service providers originating in the COMESA or SADC countries.

3.3.5 Intellectual property rights

3.160. The DRC has not made any notification to the WTO concerning the protection of intellectual property rights.

[66] In the case of a restricted invitation to tender, the invitation to submit a bid must be sent to (at least) three prospective bidders at the same time.
[67] Winning bidders for public works contracts must give preference to materials produced in the DRC.

3.161. There have been no changes in the regulatory and institutional framework for intellectual property rights since the DRC's previous TPR.[68] Industrial property continues to be governed by Law No. 82-001 of 7 January 1982, whose implementation is still being entrusted to the Industrial Property Directorate of the Ministry responsible for industry and SMEs. Copyright remains protected by Ordinance-Law No. 86-033 of 5 April 1986 and managed by the National Office for the Management of Copyright and Related Rights (ONADA) under the Ministry of Culture and the Arts. ONADA should have been an institution of common public interest but it never came into existence. In practice, copyright was protected by the National Society of Publishers, Composers and Authors (SONECA), in principle a cooperative association, although it never operated as a real cooperative association as it continued to be financed by the State. SONECA was wound up in 2011 and replaced by the Congolese Society of Copyright and Related Rights (SOCODA), which, in the form of a cooperative society, has managed copyright and related rights in the DRC since then. Other bodies that participate in the protection of copyright are the DGDA; the OCC; and the Congolese National Police Force (PND). The DRC does not have any courts that specialize in intellectual property rights. The lower and higher courts may be called upon if need be.

3.162. The DRC has been a member of the Convention establishing the World Intellectual Property Organization (WIPO) since 28 January 1975 and of the Singapore Treaty on the Law of Trademarks since 28 March 2006. It signed the Berne Convention for the Protection of Literary and Artistic Works on 8 October 1963; the Paris Convention for the Protection of Industrial Property on 31 January 1975; and the Convention for the Protection of Producers of Phonograms against Unauthorized Duplication of Their Phonograms on 29 November 1977. However, the instruments which the DRC has signed are not yet being fully implemented.

3.163. The authorities acknowledge the existence of numerous gaps in the regulatory framework in force and shortfalls in terms of administrative capacity. Discussions and work on the modernization of the laws on the protection of industrial property and copyright have been in progress since the previous review of the DRC's trade policy.

[68] WTO document WT/TPR/S/240/Rev.1 of 29 March 2011.

4 TRADE POLICIES BY SECTOR

4.1 Agriculture, livestock, fishing and forestry

4.1.1 Overview

4.1. With its vast expanse of farmable land, extensive water resources, and large, mainly young population, the DRC has a huge potential to become a major agricultural producer and exporter. Climatic conditions, including rainfall, vary greatly from one region to another and offer an excellent basis for the development of a range of agricultural, forestry and livestock activities. The steady growth of domestic demand should also favour the sector's development.

4.2. Out of a total area of 227 million hectares, 75 million (33%) are classified as arable and pasture land. However, the area under active use is estimated at about 7.5 million hectares, 3.5 million for agriculture and 4 million for pasture. There are also 55 million hectares of exploitable dense forest. The Congo Basin, with a drainage system that accounts for half of Africa's fresh water, has a climatic range that favours the cultivation of crops such as bananas, cassava, rubber, oil palm, cocoa and coffee, to mention but a few, while the mountainous areas in the east and north-east of the country, with a temperate climate, lend themselves to livestock production and the cultivation of sugar cane, potatoes, tea and coffee. In the centre of the country, the savannah areas are suitable for growing grain legumes, cereals, rice and cotton, as well as for livestock.[1]

4.3. Despite its huge potential, the sector has lagged in becoming an important factor in economic diversification and poverty reduction. It employs over 70% of the active population and provides the main source of income for about 80% of the population, considering all rural activities together, but its contribution to national wealth (GDP) has fallen steadily. Agriculture's share of GDP, estimated at 70% between 1960 and 1980, fell to 50% in 2000 and a mere 30% in 2015. Productivity is extremely low, and export earnings have been declining since 1995.

4.4. The cocoa, coffee, cotton, rubber, palm oil and tea crops that used to bring in substantial export income have collapsed. The areas available for grazing, which could potentially be used to raise more than 40 million head of cattle, currently support only about 700,000 head, or half the 1990 level of 1.5 million. The vast inland fresh water system (lakes and rivers, large and small), with a potential annual production of more than 1 million tonnes of fish, currently produces only about 200,000 tonnes. Annual food production is below 20 million tonnes, for a total demand of 25 million tonnes.[2] Despite a recovery in some categories of products, the DRC remains a net importer of agri-food products, and the situation may worsen as production is growing at an annual rate of 2% compared with an annual population growth rate of over 3% (Table 4.1).

4.5. The main food crops (roughly 75% of agricultural production) are cassava, maize, sugar cane, bananas (plantains and sweet bananas), groundnuts, palm nuts, dried beans, sweet potatoes, fresh vegetables and rice. Agricultural exports (about 15% of production) include wheat flour, palm oil, wheat bran, green coffee, natural rubber (dried), cocoa beans, and wood and leaf tobacco. Fishery and livestock products make up about 10% of production (see Table 4.1).

Table 4.1 Main agricultural products, 2008-2013

(Thousands of tonnes, unless otherwise indicated)

	2008	2009	2010	2011	2012	2013	% of total	% of world
Exports								
Wheat flour	10.4	15.0	14.1	15.0	14.5	n.a.	27.9	0.1
Palm oil	0.5	0.5	0.5	13.4	10.3	n.a.	19.9	0.0
Wheat bran	13.7	18.4	29.0	12.0	9.0	n.a.	17.4	0.2
Coffee, green	7.1	2.2	6.0	4.5	4.2	n.a.	8.0	0.1
Spices n.e.s.	0.0	3.9	3.9	3.9	3.9	n.a.	7.5	0.9
Rubber, natural (dried)	1.1	0.7	0.6	0.8	2.9	n.a.	5.5	0.0
Cocoa beans	0.9	1.6	1.2	0.8	1.8	n.a.	3.4	0.1
Maize	0.0	91.2	93.4	46.4	1.3	n.a.	2.5	0.0
Palm kernel oil	0.1	0.6	0.2	0.9	1.0	n.a.	1.9	0.0

1 Ministry of Agriculture and Rural Development (2009).
2 Ministry of Agriculture and Rural Development (2009).

	2008	2009	2010	2011	2012	2013	% of total	% of world
Tobacco, leaf	9.0	7.2	6.8	1.2	0.8	n.a.	1.6	0.0
Imports								
Wheat	249.9	278.6	398.8	459.9	506.7	n.a.	38.5	0.3
Wheat flour	136.5	76.9	134.6	140.7	128.9	n.a.	9.8	1.0
Rice – total (milled rice equivalent)	98.2	73.0	47.5	59.8	99.6	n.a.	7.6	0.3
Poultry meat	52.5	64.7	58.3	66.4	70.2	n.a.	5.3	0.6
Cornflour	25.4	179.0	183.3	59.7	69.4	n.a.	5.3	3.5
Malt	38.8	30.8	46.1	47.0	41.6	n.a.	3.2	0.6
Refined sugar	34.1	30.1	15.5	46.8	32.3	n.a.	2.5	0.2
Barley malt	32.1	16.6	20.1	13.6	25.9	n.a.	2.0	0.2
Sugar, raw, centrifuged	43.3	138.9	124.5	102.4	24.4	n.a.	1.9	0.1
Olive-pomace oil	0.2	0.2	0.0	4.5	22.3	n.a.	1.7	13.9
Food preparations n.e.s.	13.6	13.6	14.6	18.2	19.5	n.a.	1.5	0.1
Non-alcoholic beverages	22.7	14.6	16.5	21.4	18.1	n.a.	1.4	0.1
Palm oil	77.5	74.0	78.0	21.0	16.0	n.a.	1.2	0.0
Food preparations, preparations of flour, malt extract	9.1	6.9	9.7	14.0	15.2	n.a.	1.2	0.7
Tomato purée	16.0	16.0	12.5	14.1	15.2	n.a.	1.2	0.6
Production								
Cassava	15,013	15,054	15,014	15,024	16,000	16,500	57.5	6.0
Sugar, cane	1,793	1,827	1,950	1,950	1,950	2,000	7.0	0.1
Palm kernel oil	1,135	1,150	1,164	1,675	1,790	1,820	6.3	0.7
Maize	1,156	1,156	1,156	1,156	1,375	1,373	4.8	0.1
Plantains	1,207	1,200	1,300	1,300	1,350	1,350	4.7	3.6
Roots and tubers n.e.s.	716	751	800	850	865	860	3.0	8.7
Fresh vegetables n.e.s.	420	468	410	382	400	400	1.4	0.1
Groundnuts, with shell	370	371	388	394	371	370	1.3	0.8
Rice, paddy	317	317	318	319	350	355	1.2	0.0
Bananas	315	316	316	317	322	323	1.1	0.3
Mangoes, mangosteens and guavas	208	210	212	314	325	310	1.1	0.7
Barley beer	255	204	305	310	310	310	1.1	0.2
Palm oil	182	185	187	280	296	300	1.0	0.6
Sweet potatoes	240	243	247	251	265	275	1.0	0.3
Papayas	222	224	226	228	230	225	0.8	1.8
Pineapples	198	199	201	202	205	203	0.7	0.8
Oranges	181	181	181	182	182	183	0.6	0.3
Beans, dry	113	114	115	116	125	130	0.5	0.6
Potatoes	94	94	95	95	100	110	0.4	0.0
Yams	88	89	90	91	100	100	0.3	0.2
Cowpeas, dry	58	59	60	73	80	80	0.3	1.3
Legumes n.e.s.	10	10	62	64	74	74	0.3	1.5
Avocados	65	66	67	68	70	66	0.2	1.4
Melon seeds	51	51	52	61	62	62	0.2	8.0
Oilseeds n.e.s.	35	37	37	44	45	46	0.2	1.3
Bambara beans	10	11	11	13	14	14	0.0	5.7
Jute-like fibres	6	5	5	6	7	7	0.0	2.5
Livestock								
Goats (thousand head)	4,046.1	4,046.1	4,052.2	4,058.2	4,065	4,100	N/A	0.4
Pigs (thousand head)	96,513	96,716	97,738	9,811	1,000	1,050	N/A	0.1
Sheep (thousand head)	90,227	90,317	90,408	90,498	9,055	910	N/A	0.1
Poultry (thousand head)	19,948	20,007	20,067	20,128	20.5	21	N/A	0.1
Eggs (millions)	214	249	254	255	257	257	N/A	0.0
Milk (thousands of tonnes)	6,788	6,863	7.5	8	9	9.5	N/A	0.0

n.a. Not available.

N/A Not applicable.

Source: FAOSTAT online information. Viewed at: http://faostat3.fao.org/home/E.

4.6. Access to land remains a problem for the creation of new industrial plantations despite the low population density of the DRC (24 inhabitants per square km). Although the establishment of small or medium-sized, often family-run farms presents no difficulties, this cannot be said of large-scale integrated farms, particularly as land law is ambiguous, reflecting a progressive transition from customary law to a modern law of land tenure. The present system of 25-year leases is discouraging foreign investors and impeding the emergence of large industrial units.

4.7. The classification of land and conditions of access to the land are governed by Law No. 73-021 of 20 July 1973 on the general regime of property, land tenure, real estate and securities as amended and supplemented by Law No. 80-008 of 18 July 1980. Access conditions are set out at Articles 183, 181 and 192 of the Law. Land management raises legal and customary problems: the DRC Constitution proclaims the State's permanent sovereignty over land, water and forests, and guarantees individual and collective property rights in Articles 9 and 34. Nevertheless, Law No. 11/022 of 24 December 2011 on fundamental principles relating to agriculture (Article 18), Law No. 15/015 of 25 August 2015 establishing the status of customary chiefs (Articles 10 and 26) and Article 388 of the Law on Land Tenure recognize the lands of local communities. These laws establish the procedures to be followed for land requests and the conditions for acquisition both by nationals and by foreigners.

4.8. Agriculture is still largely based on a system of mixed crop farming combined with small-scale livestock breeding (goats, sheep, pigs and poultry) on small, largely unmechanized family holdings of 1 to 2 hectares, leading to low productivity in many subsectors. Apart from the private coffee, tea and oil palm plantations, farms are mainly held under the customary regime of land tenure, with the result that most holdings are unregistered and there is no official market for land. The sector is also characterized by fragmentation of the domestic market, basically owing to the lack of infrastructure and trading hubs, which tends to erode producers' profit margins. Extension services remain embryonic and the lack of a legal framework discourages the creation of agricultural cooperatives and associations. Access to credit remains difficult and penalizes a sector that badly needs investment in biological material (all the stock is old, unproductive and disease-prone) and in agricultural equipment. Moreover, export procedures remain difficult and levies are high, further undermining the competitiveness of the agricultural sector, which imports most of its inputs and equipment.

4.1.2 Agricultural policy

4.9. In 2011, the DRC enacted the Law of 24 December 2011 on fundamental principles relating to agriculture – the Agricultural Code - whose objective is to promote and develop agricultural production in order to guarantee food security and rural development (Article 1).

4.10. An agricultural and rural policy Paper was drafted in 2009, the primary objective being to contribute to the achievement of food security in accordance with the first Millennium Development Goal. The Government's objective was sustainable agricultural development that would safeguard the country's productive asset endowment, which is the foundation for national economic recovery. Mention is specifically made of (i) increasing market access and value added for agricultural production, (ii) improving agricultural productivity, including food crops, horticulture and vegetables, fishing and livestock; (iii) promoting decentralized financial systems adapted to the nature of agricultural activities; and (iv) strengthening the technical and organizational capacities of public and private institutions that provide support for production.

4.11. In September 2013 the DRC adopted the National Agricultural Investment Plan (PNIA 2013-2020) running until 2020, with an estimated cost of US$5,730.8 million. This Plan is the National Planning Framework for national and external funds for agriculture and rural development. It takes into account the needs, achievements and gaps in coverage, providing a blueprint for the investment and operation of the sector over a period of eight years (2013-2020). The PNIA brings together all the ongoing and future programmes and projects in the sector. The overall objective is to stimulate sustained annual growth of the agricultural sector of over 6%, which is essential to reduce poverty, ensure food and nutritional security for the population, and sustainably generate jobs and incomes.

4.12. The PNIA is organized into five programmes, addressing five major priorities of the sector, and is developed through 18 subprogrammes with 66 sub-components. The 5 major priority programmes include various sectoral or crosscutting actions, including: (i) improving agricultural governance, promoting the gender approach and human and institutional capacity building; (ii) sustainable promotion of agricultural value chains, first and foremost food crops, and developing agribusiness in order to boost income of rural workers and other agricultural stakeholders; (iii) improving the management of food and nutrition security and strategic agricultural reserves; (iv) developing and disseminating research results among users and enhancing the professional competencies of the various stakeholders; and (v) reducing vulnerability to climate change.

4.13. In order to implement the PNIA, the Government, with the support of donors and development partners, aims in particular to open up the countryside, gradually develop 22 agribusiness parks, and tap foreign investment. Various measures have been taken to this end, including the establishment of the fundamental principles for the agricultural sector, exemption from export duties and taxes for imports of agricultural inputs and products (Law No. 11/022 of 24 December 2011), and the creation of a National Agricultural Development Fund (FONADA). The first such agribusiness park, that of Bukanga Lonzo in Kwango Province, has been operational since 2014.

4.14. The Ministry responsible for agriculture (MINAGRI) is tasked with formulating and implementing agricultural policy relating to crops and livestock, while the Ministry in charge of rural development is responsible for forestry.[3] Apart from MINAGRI, a number of other ministries are involved in the sector: Ministry of Trade (in matters relating to trade regulations), Ministry of Finance (tax matters), Ministry of the Economy (price setting matters), Ministry of Health, Ministry of the Environment, Nature Conservation, Water and Forests (MECNEF), Ministry of Scientific and Technological Research (MINREST), Ministry of the Status of Women and the Family (CONDIFA) (gender matters), and Ministry of Planning (which centralizes and coordinates all national macroeconomic programmes), as well as certain services attached to the Offices of the Prime Minister and the President, each in their own specific area. It should also be noted that since 2001 a Central Coordination Office (BCeCo) is responsible for coordinating external resources from some major international donors such as the World Bank and its institutions and the European Union. This leads to certain functions being split up and undermines the effectiveness of State action by giving rise to numerous jurisdictional disputes and substantial additional costs. In addition, the legislative and regulatory framework for agricultural policies is characterized by the adoption of various laws and regulations by the central government and by decentralized administrative entities, without any harmonization or arrangements for their evaluation.

4.15. In 2016, various parapublic bodies are still active and directly involved in the agricultural sector: the National Coffee Office (ONC), the National Institute for Agronomic Studies and Research (INERA), and the Maize Research Centre (CRM). These parapublic agricultural bodies were set up to provide technical assistance to farmers and monitor the production, processing and marketing of foodstuffs but never achieved their objectives for a number of reasons, in particular lack of funds and bad management. Nevertheless, several of these services may be rehabilitated and revitalized and come to play an important role in the recovery of the agricultural sector. Government funding for these public bodies and and/or enterprises is limited and sporadic.

4.16. The agricultural sector enjoys high nominal tariff protection as well as some tax exemptions or relief (Section 3.2). In 2015, the simple arithmetic average of tariff rates in the sector was 10%, with a coefficient of variation of 0.48 indicating moderate dispersion of rates (Section 3.1.5). Relatively high rates apply in particular to imports of fruit, vegetables and plants; beverages and tobacco; animal or vegetable fats and oils; and coffee and tea (Table A3.1). In addition, there is a mixed escalation of agricultural tariffs owing to the relatively high protection for unprocessed agricultural products (Section 3.1.5). This tariff structure distorts the competitiveness of Congolese goods, in particular processed agricultural products.

4.17. Imports of plant products are subject to phytosanitary measures while those of animal products are in principle subject to sanitary requirements (Section 3.2). Other duties and taxes, including excise taxes, are also levied on agricultural products. Together with burdensome import formalities, all of this encourages fraud, which reduces the level of protection the authorities believe they are granting to local producers (Section 3.2).

4.18. The production, import, export, packaging, storage and distribution of fertilizers and other agricultural inputs are regulated jointly by the Ministries responsible for agriculture, trade, the environment and health. The taxes specifically imposed on the agricultural sector are relatively

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[3] Article 6 of the Agricultural Code provides that the Government defines and implements national policy with a view to the promotion and growth of agricultural production and rural development and food security. This policy is the basis of the programme for the provinces. It includes the main policy guidelines for land tenure, agricultural activity, training and research, promotion, production and marketing of agricultural inputs and products, development of agribusiness and basic infrastructure, conservation and sustainable use of phytogenetic resources for food and agriculture, and financing for agriculture.

low. Exemptions are also provided in order to encourage investment in agriculture. Thus, land taxes are waived on undeveloped land dedicated exclusively to agriculture or livestock as regards the areas actually cultivated or normally necessary for fertilizer or livestock. Rolling stock used exclusively for agricultural purposes is also tax exempt.[4] Agricultural inputs, such as fertilizers, pesticides and fungicides, are entirely imported and exempt from import duties and taxes, apart from administrative fees and other charges in payment of services provided by the many public bodies operating at border posts (Section 3.2), which discourages their use.[5]

4.19. Agricultural products are exempted from export duties and taxes. The fees and charges levied for services provided by public bodies operating at border posts may not exceed 0.25% of the value of the exported product (Sections 2.2 and 3.2.2). Despite these exemptions, according to economic operators such as the Federation of Congolese Enterprises (FEC), the levies imposed by a wide range of institutions (the Congolese Control Office (OCC), the ONC (with a levy f.o.b. of 4.5% on Robusta coffee, 3.5% on Arabica coffee, 3% on cocoa and 2% on other products), the Multimodal Freight Management Office (OGEFREM) and the provinces, among others) bring the total tax on exports to about 11-13%, to which must be added the "multiple facilitation charges" which private operators have to pay to prevent their exports from being delayed and which may amount to 3-4% of the f.o.b. value of the exports. Some food staples (for example, sugar, wheat flour, rice, and salted or smoked fish) are subject to prior import authorization (Section 3) and price controls (Section 3) in order to control their supply and price on the domestic market. Agricultural products, including foodstuffs, are also subject to sanitary and phytosanitary measures, such as the prohibition on importation of live birds and products thereof (Section 3). Thus, these various measures (taxation, procedures and controls) are of a nature such as to discourage both imports and, when imposed on inputs, production and exports as well.

4.20. Domestic support for the agricultural sector takes various forms, such as: credit at reduced interest rates, and other forms of subsidy provided by the Industrial Promotion Fund (FPI); tax concessions; the provision/loan of materials and equipment; advantages associated with government procurement and direct State intervention on purchasing; subsidization or free provision of veterinary, sanitary and phytosanitary services (such as vaccination against animal diseases, foot-and-mouth disease, contagious bovine pleuropneumonia, sheep and goat plague (PPR), Newcastle disease, etc.); supply/subsidization of seeds, fertilizers and tillage equipment to crop farmers, farm animals to livestock farmers and fishing inputs to fishermen and sometimes the provision of fish feed for fish farmers. Furthermore, Article 40 of the Agricultural Code provides for mechanisms for subsidizing electricity and fuels intended for agricultural activities. These mechanisms have yet to be spelled out in the implementing regulations (interministerial decree) that are still being drafted.

4.21. The DRC plans to establish a number of agribusiness parks (PAI) (Bukanga Lonzo and others) financed through public-private partnerships intended for a broad range of entrepreneurs and agricultural activities. The PAIs are production parks that bring together various agricultural stakeholders (professionals, small farmers, etc.) working land areas of varying size but sharing the basic infrastructure (roads, water, energy, telecommunications, etc.), local services (finance, quality control laboratories, transport services, maintenance and waste management services, cold storage plants etc.), agricultural know-how and good practices (training, research, support and technology transfer). They involve three components: the development of commercial farms; support for small farmers living on the periphery of the selected sites; and the development of capital-, technology- and labour-intensive agricultural cooperatives. In 2016, 22 sites in all have been identified for the installation of agribusiness parks throughout the country.

4.1.3 Trade policy by major product category

4.1.3.1 Overview

4.22. The DRC's agricultural policy by subsector has not changed substantially since the previous TPR in 2010.[6] However, the DRC has taken some steps to revitalize a number of agricultural

[4] Democratic Republic of Congo: Articles 74 and 75 of the Law of 24 December 2011 on the fundamental principles relating to agriculture – Agricultural Code.

[5] Democratic Republic of Congo: Article 72 of the Law of 24 December 2011 on the fundamental principles relating to agriculture – Agricultural Code.

[6] WTO document WT/TPR/S/240/Rev.1 of 29 March 2011.

exports that used to be the pillars of its economy. These are in particular the cocoa and coffee subsectors, which have enjoyed support from the EU in the context of the 10th EDF for the period 2013-2015, aimed at improving productivity of plantations, crop quality and producer incomes. The Government has also extended support to agri-food crops. Thus, the oil palm subsector is currently receiving support under the project to support the recovery of the oil palm industry in the DRC, whose pilot phase was launched in August 2015 with the support of the Enhanced Integrated Framework (EIF).

4.23. With the support of multilateral donors, including the FAO, World Bank and African Development Bank (AfDB), the DRC has also targeted cassava; rice, with the national rice-growing development strategy; and milk, in the framework of the Regional Great Lakes Integrated Agricultural Growth Project, which will receive IDA funding. The Government hopes that partners and donors will provide support for the financing and implementation of this project. In the case of livestock farming, attention has focused on short-cycle animals (poultry, pigs, sheep and goats, and pond or cage fish). Thus, the Government has undertaken the rehabilitation of the N'sele presidential farm, and the development of poultry- and pig-raising farms around cities and major towns, with the support of the FPI.

4.24. The DRC obtained US$35 million in financing from the ADB for the implementation of an entrepreneurship programme for young people in agriculture and agro-industry (PEJAA). As the programme is intended to cover the entire national territory, the two partners (Government and AfDB) are considering inviting other donors to join the programme.

4.25. The growth potential for cash crops in the DRC remains considerable (Section 4.1.1). However, for this subsector to develop it will be necessary to eliminate various bottlenecks that hinder the country's competitiveness in the production of these crops (coffee, tea, rubber and palm oil): low agricultural productivity owing, *inter alia*, to difficulties of access to improved plants and the renewal of plantations; inefficient industrial processing due to the lack of financing for the rehabilitation of factories and personnel training; and prohibitive transport and export costs stemming from red tape and the various high levies (Section 3). Furthermore, the lack of a coherent agricultural policy for specific subsectors is also one of the main causes of the stagnation or indeed disappearance of some of these subsectors that have been badly hit by the rural exodus and pockets of insecurity, primarily in the east of the country.

4.26. The sector is also still protected by various high, non-uniform levies (Table A4.1). Thus, imports of unprocessed coffee, other than seed, are subject to an average customs duty of 14% (HS 0901) and the tariff on tea is 20% (HS 0902), as is that on rubber (20%). The tariff on cassava is 10% (HS 071410); the average tariff on rice is 9% (HS 1006), the average on maize is 7.5% (HS 1005) and on maize flour, 10% (HS 110220). Aside from customs duties, all these imports are also subject to a multitude of other duties and taxes, as well as controls and the related charges (Section 3.2). This heavy taxation of cassava, rice, maize and maize flour, staple products and basic foods for the Congolese, not only exacerbates household poverty but also does nothing to encourage efforts to achieve competitiveness in these subsectors. Hence, these measures tend to discourage investment in these subsectors and thus impede the development of processing of these products in the DRC.

4.1.3.2 Fishing and aquaculture

4.27. Fishing is a major sector in the DRC. It creates many direct and indirect jobs, employing about 250,000 people in 2015 and providing the livelihood for thousands of people. It supplies about 60% of domestic consumption of fish protein from annual catches of about 235,000 tonnes in 2014. The remainder is provided by imports, either frozen (70% of imports) or salted (30%). The country's annual fishing potential is estimated at 700,000 tonnes of fish, compared with annual production estimated at about 200,000 tonnes, or barely 0.5% of the country's GDP. According to the authorities, there are some 400 species of fish in Congolese waters, of which about a hundred are commercially important.[7]

4.28. Fishing in the DRC is small-scale (non-industrial), semi-industrial or industrial. Small-scale fishing is the most widespread and accounts for more than 90% of the catch. It is carried on using rudimentary means in numerous rivers, large and small, ponds (for aquaculture)

[7] Ministry of Agriculture and Fisheries (undated).

and lakes, and on the Atlantic coast. The fishing units consist mainly of paddle-propelled dugout or plank canoes 4-6 m long. Only a very small proportion is motorized. The fishing gear used consists mainly of gill nets, seine nets, longlines, pots and cast nets. Yields remain low.

4.29. Fish caught near consumption centres is consumed fresh, whereas in the interior it is processed on the spot, given the lack of conservation facilities, either by smoking or by salting-drying. This work is primarily carried out by women, who are very active in processing and marketing and account for about 80% of smoking, drying and salting activities. Aquaculture is still in its infancy, and is based on the tilapia species. The fresh fish trade provides fishermen with food and income but its scale is restricted by the lack of appropriate infrastructure and equipment, in particular for the cold chain. Processed products have been developed only to a very limited extent, owing to the lack of infrastructure.

4.30. According to the authorities, an international integrated project for the development and support of fisheries (PRODAP) grouping four countries (Burundi, Tanzania, Zambia and the DRC) has been developed. Its main deliverables are the construction of three fishing schools, joint surveillance of the waters of Lake Tanganyika through the purchase of four fishery launches, the construction of a fully equipped wharf, harmonization of fishing legislation among the countries concerned, etc. In addition, the fisheries administration has trained over 6,000 fishermen throughout the country in co-management systems and disseminated the code of conduct for responsible fisheries.

4.31. The average level of tariff protection for fishery activities (ISIC 13) is 15%, with rates ranging from 10 to 20% (Section 3 and Table A4.1), not to mention the other import levies and taxes and other administrative surcharges (Section 3.2) that further depress the sector's productivity.

4.32. Despite the country's fishery potential, there are numerous obstacles to the development of fishing, such as institutional instability, old and unsuitable means of production and lack of infrastructure. The many obstacles also include lack of a strategy and appropriate legislative and regulatory instruments, since the Fishing Code (Decree-law) dates back to 1937. In the meantime, ministerial orders have modified and reorganized the sector. The latest law was drafted with the aid of the FAO. The aim of this new law, under discussion within the Government, is to introduce "responsible" fishing that respects the ecosystem and upgrades the fishing trades. Nevertheless, despite the existence of a code of conduct for responsible fisheries in the framework of cooperation with the FAO, which has been translated into four languages, its applicability raises real problems owing to the lack of competent public services for some bodies of water. Closed fishing seasons, for example, are generally not respected.

4.33. The DRC has concluded fishery agreements with Namibia and Tanzania, which it has not ratified. Nevertheless, according to the Congolese authorities, vessels from Angola, Namibia and Tanzania may fish in the DRC's territorial waters.

4.1.3.3 Forestry

4.34. The forests of the DRC cover around 155 million hectares (more than 60% of the national territory), of which 60 million hectares are exploitable by the timber industry, for a declared annual production of around 500,000 m^3, properly managed and with rotation every 25 years.[8]

4.35. The regulatory framework for the timber industry in the DRC has not changed substantially since the previous TPR. Law No. 011/2002 of 29 August 2002 on the Forest Code and its 38 implementing texts continue to govern the sector. This framework is administered by the Ministry responsible for forests. The DRC is a member of the Treaty on the Conservation and Sustainable Management of Forest Ecosystems in Central Africa[9], which is the framework for its plan for sustainable forest management. However, the Government has begun a process of legal review of former forest title deeds with a view to their conversion into forest concession contracts, as have now been signed with a dozen economic operators in the forestry sector.

[8] Democratic Republic of the Congo (2003).

[9] This treaty, which set up the Central Africa Forest Commission (COMIFAC), was adopted at the Summit of Central African Heads of State, held at Brazzaville on 4-5 February 2005. The Congo Basin Forest Partnership (CBFP), launched at the Johannesburg Summit in September 2002, is financed by donors.

4.36. According to the authorities, the DRC is committed to the protection of the environment and the sustainable management of forests and natural resources. To this end, the Support for Sustainable Forest Management project (AGEDUFOR), backed by the French Development Agency (AFD), aims to support this process by focusing on: (i) capacity building for the central and provincial administrations for the validation, monitoring and implementation of forest development plans; (ii) capacity building for timber companies; and (iii) strengthening of the institutional framework for sustainable management of forests and information on international mechanisms linked to sustainable management.

4.37. With World Bank support, the DRC has developed the Timber Production and Marketing Control Programme (PCPCB), leading to the operational organization of a new TRABOC platform on timber traceability in collaboration with the OCC. The OCC carries out the following activities: measurement and volume calculation, qualitative inspection, document checks, tallying during loading on trucks or into containers, issuing of ready consignment and sealing reports, and export verification certificates (CVE).

4.38. Enterprises that exploit timber must in principle pay a surface rent on the forest concession of CDF 560 per hectare; a tax on the small-scale timber cutting permit of CDF 28,000 per hectare; a reforestation tax of 4% of the ex-works[10] (EWK) value per m^3 of timber in the rough exported; a tax of 2% of the EWK value per m^3 of timber of promoted species exported in the rough[11]; a felling tax of 1.25% of the EWK value of the species concerned. In addition, the charges involved in the OCC control, in the case of export, amount to 0.85% of the f.o.b. value for sawn timber and veneer, and 1.2% of the f.o.b. value in the case of logs. In the case of local sales from sawmills, these costs are in the order of 1% of the sales price excluding tax.

4.39. The forestry sector is heavily protected. The simple average of the tariffs applied to timber subsector imports (ISIC 33) is 19.1%, with an average rate of 16.3% on inputs (Table A4.1). To this should be added other levies and taxes, together with various import and export controls (Section 3.2). The mixed tariff structure in the timber industry, with average rates of 16.3% for goods in the first stage of processing, 19.6% for semi-processed products and 18.5% for finished products, poses several problems. The fact that all these rates are above the global average of 11.3% is hardly calculated to expose the subsector to competition and thus encourage greater competitiveness. The heavy taxation of first-stage products tends to push up the production costs of the associated semi-finished products, and can hardly be justified. These various factors, combined with export taxes, levies and the various forms of red tape, are limiting the competitiveness of these export products. Thus, the Government's proclaimed aim of promoting the export of processed timber products is being frustrated. Moreover, there is no national structure or organization for the promotion of timber processing to support this objective.

4.40. Despite its huge potential, forestry exploitation in the DRC thus remains below the country's capacity. The sector, which could have represented a source of appreciable tax and export income and hence of poverty reduction in rural areas, is struggling to develop.

4.41. As far as the environment and nature conservation are concerned, the DRC has implemented a number of initiatives over the period 2010-2015 through legislation and sectoral strategies.[12] A strategy for this purpose would be worthwhile. Under the Kyoto Protocol, for a country without emission reduction commitments such as the DRC, the Clean Development Mechanism (CDM) offers an enormous carbon credit market potential. Congolese forests constitute

[10] The ex-works value is calculated on the basis of the f.o.b. price less an average transport cost linked with the location of the source of the timber.

[11] The list of species for promotion is established by an order of the Ministry with responsibility for forests.

[12] These include: (i) the definition of fundamental principles on environmental protection (Law No. 11/009 of 9 July 2011), based on the fundamental and universal principles recognized at international level such as the obligation to carry out an environmental and social impact study, and an environmental audit; (ii) the adoption in 2012 of a REDD+ National Strategy; (iii) adoption of a policy and research plan for the Congolese Institute for Nature Conservation, in June 2011; (iv) adoption in September 2012 of a national strategy for biodiversity conservation in protected areas of the Democratic Republic of Congo; (v) adoption of measures to regulate classified installations, with the aim of establishing the nomenclature, categorization, procedures for obtaining a national or provincial permit, and conditions for the exploitation of classified installations (Decree No. 13/015 of 29 May 2013); (vi) adoption of a national sanitation policy in December 2013; and (vii) promulgation of Law No. 014-003 of 11 February 2014 on nature conservation.

an important "carbon sink" at the global level and are therefore a latent asset in the same way as mining or hydroelectric resources. With a low rate of deforestation of 0.27% in 2009, Congolese forests are the foremost carbon sink in the world.[13] Given the growth prospects for the carbon market (in volume and price), utilization of this resource in the form of carbon credits could turn it into a significant source of revenue for the DRC.

4.42. The DRC has submitted the project for environmental protection in the province of Maï-Ndombe for co-financing by the Green Climate Fund for an amount of US$70 million. Other projects in the country concern the creation of timber production centres in rural areas, and the creation of the carpentry and cabinet-making hub.

4.43. At the international level, the DRC ratified the International Plant Protection Convention (IPPC) in April 2015. In the context of the fight against climate change, since August 2015 the DRC has reduced its Intended Nationally Determined Contribution (INDC). It also participated actively in the United Nations Climate Conference held in Paris in December 2015, and supports the effective implementation of the agreement reached at the Conference.

4.2 Mining and energy

4.44. With enormous mining resources that could have contributed to its development, the DRC is often described as a geological scandal. Despite its huge potential, the mining sector currently makes only a very small contribution to the country's growth. It is estimated that 200,000 people directly or indirectly depend on industrial mining, while small-scale mining is estimated to employ between 500,000 and 2 million miners.[14] Each year, between US$400 and 600 million in fiscal revenue is derived from the mining sector, i.e. between 30 and 50% of the total. Moreover, if well organized, the development of this sector would have had a carry-over effect on the economy in general through, on the one hand, the development of certain related services and agriculture and, on the other, the expansion of local processing of the raw materials. In fact, the DRC's development problems suggest that it might be a victim of the perverse effects of its natural resources (generally known as "Dutch disease syndrome").

4.45. The Government considers that mining, energy and water are pillars of economic growth in the DRC. Its objectives in the subsector are to increase investment relating to the supply of and access to energy, by promoting partnership between the public and private sectors and by improving governance. According to the authorities, cooperation with the financial community and business circles, for which World Bank intervention is crucial, is the key to mobilizing resources and raising the level of investment, especially in the DRC's mining, water and energy subsectors.

4.46. The Ministry in charge of mining is responsible for formulating and implementing the country's mining policy. The activities upstream of the energy subsector come under the Ministry in charge of mining, which is responsible for exploration and extraction. The Ministry in charge of hydrocarbons regulates petroleum refining, distribution and storage. The Ministry in charge of energy deals with the production, transport and distribution of electricity and gas, as well as water production, transport, distribution and quality control. The DRC depends on imports for 90% of its gas and petroleum requirements.

4.2.1 Petroleum and gas products

4.47. The DRC ranks 68th among petroleum producers, with 25,000 barrels per day (15,000 onshore and 10,000 offshore), which contribute US$200-300 million annually to the national budget. However, its petroleum resources remain underexploited. According to the official data, with ten blocks on Lake Tanganyika, five in the Albertine Graben and those in the Central Basin (in process of being explored), the country holds 6% of Africa's petroleum reserves.

4.48. Prior to the adoption of the Hydrocarbons Code in August 2015, the sector was governed by Ordinance-Law No. 81-013 of 2 April 1981, whose Article 80 authorizes the granting of mineral rights by agreement solely to legal persons whose objects are limited to the prospection and exploration, exploitation and processing of hydrocarbons and to operations tending to promote the

[13] International Timber Organization (2008).
[14] Potentially, almost 10 million Congolese could depend solely on small-scale mining.

realization of these objects. Moreover, the conditions for the granting of mineral rights include the obligations to be domiciled in the DRC, to provide appropriate evidence of commercial morality, and to establish a registered place of business and administrative headquarters in the DRC (Article 7).[15]

4.49. The hydrocarbons sector is now governed by Law No. 15/012 of 1 August 2015 on the general hydrocarbons regime – the Hydrocarbons Code.[16] This new law establishes mechanisms for boosting prospection, exploration and exploitation activities, with a view to evaluating hydrocarbon resources and a more balanced sharing of petroleum revenue. The law also establishes the principles that will from now on govern refining, transport/storage and distribution of petroleum products. The marketing segment remains liberalized, but the State plays a role upstream as regards supply contracts and downstream through price regulation. These new provisions offer business opportunities in terms of private investment and public-private partnerships.

4.50. For the grant of hydrocarbon exploration and exploitation rights (Article 33), the Hydrocarbons Code provides for production-sharing contracts (PSCs) or block service concession contracts awarded by a tender procedure. Exploration and exploitation rights are exercised in accordance with the provisions of the law, the hydrocarbons regulations and the hydrocarbons contract. The law also provides for a totally tax-free regime for imports of goods specifically intended for petroleum operations in connection with upstream hydrocarbon activities, as well as for the export and re-export of goods specifically intended for petroleum operations (see Articles 143 and 146).

4.51. As regards upstream hydrocarbon activities, prospection authorizations are granted to any legal person under Congolese or foreign law that has subscribed to the specification requirements of the Ministry of Hydrocarbons. The prospection authorization is a non-exclusive right that is valid for 12 months, renewable once only for a period of six months. The exploration right is exclusive and awarded for an initial period of three years, renewable twice for the same length of time. Exploitation rights are also exclusive, and granted for a period that may not exceed 20 years, renewable once only for a maximum of ten years.

4.52. Through the Ministry of Hydrocarbons, the State plays the role of regulator of the sector, by overseeing the implementation of the provisions of the law by all the parties concerned. The National Hydrocarbons Company (COHYDRO) supports the State in implementing the national petroleum policy in the exploration/production segment. The Hydrocarbons Code provides that the State participates in hydrocarbon activities through a national company, in this case COHYDRO, which participates in hydrocarbon activities both upstream and downstream, either directly or indirectly in association with a Congolese or foreign legal person.[17] The national company has a mandatory shareholding of 20% in upstream activities, which cannot be transferred.

4.53. The DRC has three oil basins and a small refinery unit for imported crude. However, the country imports almost all of its refined hydrocarbon requirements. Storage is provided by SEP Congo, which is 40% State-owned, the rest of the capital being held by private oil companies. SEP coordinates deliveries to the various depots, ensures that the distributors are supplied and installs the infrastructure needed to build up strategic reserves. Distribution is still dominated by the subsidiaries of the large international groups within the Professional Grouping of Petroleum Product Distributors (GPDPP), which holds almost 90% of market share.

4.54. Multinational companies have acquired permits in the areas open to exploration/production activities in the three sedimentary basins (Coastal Basin, Central Basin, and Albertine and Tanganyika Grabens). They also own shares in each of the companies specializing in the marketing of petroleum products; the State holds 20% of the capital (see Table 4.2). The main companies

[15] Ordinance-Law No. 81-013 of 2 April 1981 on general legislation on mining and hydrocarbons. Viewed at: http://www.droit-afrique.com/images/textes/RDC/RDC - Code hydrocarbures et mines 1981.pdf.

[16] Office of the President of the Republic (2015). Law No. 15/012 of 1 August 2015 on the general hydrocarbons regime.

[17] The National Hydrocarbons Company (Congolaise des hydrocarbures S.A. (COHYDRO)), is a public limited company of which the Congolese State is the sole shareholder. It is a State-owned enterprise with technical, commercial and industrial activities. The right of association with a Congolese or foreign legal person is recognized by the law (see Article 15). COHYDRO was established by Decree-Law No. 245 of 9 August 1999 to meet the challenge of oil independence for the DRC.

specializing in the marketing of petroleum products are subsidiaries of multinationals grouped together in the GPDPP: COBIL (risen from the ashes of the company MOBIL OIL), CONGO-OIL[18], SONANGOL[19], and COHYDRO, the national company.

Table 4.2 Organization of upstream petroleum activities in the DRC, 2016

Blocks:	Partners	Contract types	Phases of activity
Coastal Basin (onshore) (Atlantic Coast)	PERENCO-LIREX	Concession (1969)	Production phase 10,000 barrels/day
Coastal Basin (offshore)	MIOC-ODS-TEIKOKU	Concession (1969)	Production phase 15,000 barrels/day
Coastal Basin (onshore) 3 blocks	SURESTREAM PETROLEUM-COHYDRO	PSC 16-11-2005	Exploration phase
Coastal Basin (onshore)	ENERGULF	PSC 16-11-2005	Exploration phase
Coastal Basin	NESSERGY		Pending ZIC[a]
Central Basin	COMICO	PSC	Contract not approved
Central Basin	HOIL		Contract not approved
Albertine Graben	CAPRIKAT Ltd.-FOXWHELP Ltd.	PSC (blocks I & II), 5 May 2010	Exploration phase
Albertine Graben	TOTAL E&P DRC	PSC (block III)	Exploration phase

a In the case of the ZIC (common interest zone), the Republic of Angola ratified in a Council of Ministers held on 14 April 2003, under a simplified procedure, the Agreement signed on 30 July 2003 in Luanda between the two countries for hydrocarbon exploration and production in a maritime common interest zone. The Democratic Republic of the Congo in turn ratified the Agreement on 19 May 2008 by virtue of Law No. 074/004 of 16 November 2007. However, the implementation of this Agreement is held up by a divergent understanding of the sharing of the petroleum exploitation blocks in the ZIC.

Source: Democratic Republic of the Congo (2016), Ministry of Hydrocarbons.

4.55. Hydrocarbon trading is organized by Ministerial Order No. 058.CAB.MIN.ENER/2006 of 7 October 2006 regulating the importation and marketing of petroleum products. There are three main supply routes for petroleum products to the DRC: from the west, on the Atlantic coast, the south by rail, and the east by road. This activity is operated by suppliers, national or foreign legal persons, who sign a supply contract with the Ministry of Hydrocarbons. Supply contracts are valid for four years and are renewable. This activity remains liberalized and governed by Interministerial Order No. 068 CAB.MIN.ENER/MIN-ECO/2006 of 28 December 2006.

4.56. The distribution of petroleum products for consumption is carried out by companies known as "importation and marketing companies". This activity is subject to prior authorization by the Ministry of Hydrocarbons. Three main groupings are concerned: two multinationals (ENGEN and TOTAL RDC); two State companies (COBIL and COHYDRO); and several independent private companies.

4.57. Hydrocarbon selling prices are set by ministerial order initiated by the Minister in charge of the economy, after consulting with the Interministerial Petroleum Price Structure Monitoring Committee consisting of the State and the oil companies represented by the GPDPP. In the absence of an equalization system, prices vary sharply between Kinshasa and Katanga provinces and the two Kasaïs and Maniema, which are completely landlocked.

4.58. The petroleum product price structure is expressed in Congolese francs but also in US dollars as a reference currency. It is based on the entry point of the petroleum products and type of product (ground or aviation). The constituent components of the petroleum product price structure are defined by the Minister responsible for the economy and the Minister responsible for hydrocarbons. These components include: volume (quantity), average border price (ABP), which is a weighted average of the import price (supplier price) and price within the country; the market-based exchange rate; the various elements of the operating charge structures of the importing companies (COBIL, TOTAL, etc.) and service companies (SEP and SOCIR, for example), including distribution costs and margins of commercial companies; and tax elements (entry duties and consumption duties) as well as parafiscal elements (National Road Maintenance Fund and molecular marking - a form of tax in the context of the fight against fraud in petroleum products

[18] A Swiss (X-OIL: 50%) and Congolese (COHYDRO: 50%) limited liability company.

[19] A subsidiary limited liability company of the Angolan company SONANGOL, in which the Congolese State owns 40% of the shares.

entering the DRC.[20] The combination of these various elements determines the selling prices of the products at the pump, which must be displayed in CDF at the average exchange rate on the day before that on which the structure is applied.

4.59. The petroleum distribution companies are free to adapt the structure to the variations of one of the following elements: volume (quantity), ABP and exchange rate. These variations consist, for the ABP and exchange rate, in an increase or decrease of at least 5%, while for volumes the average of the last two accounting months published by SEP-CONGO is taken into account.

4.60. Special tax (Section 2) and customs (Section 3) regimes apply to the hydrocarbons sector. Imports intended for the direct and exclusive use of the petroleum and gas industry, as well as petroleum exports (crude or refined), are exempt from customs duties and taxes, with the exception of stamp duty.

4.61. Imports of refined petroleum products are subject to an average tariff of 10%, with a minimum of 5% and a maximum of 20%, not to mention the other import levies and taxes (Section 3.2). Altogether, the various levies and taxes collected represent around 75% of the price at the pump, which has the effect of placing considerable upward pressure on production costs in the DRC.

4.62. The DRC has substantial reserves of gas at Lake Kivu in the east of the country, on the border with Rwanda, which is already exploiting 2 production units: KIBUYE POWER, which produces 1.9 MW with an installed capacity of 3.6 MW, and KIVU WATH, which started up in November 2015 with 2.4 MW. The DRC is at the stage of completing the tender process for the selection of the company that is to produce at the north of the lake in the Goma block, one out of the country's four blocks. Start-up production of 5 MW is foreseen. On 19 October 2015 the DRC and Rwanda signed a monitoring protocol with a view to maintaining the stability of the lake. A bilateral ad hoc committee consisting of 5 members from each country has been set up.

4.63. Industrial gases (oxygen and butane) are currently being imported into the DRC by reference to the regulations governing petroleum products. The land petroleum product price structure also takes account of gas. The gas market is open but its development is limited. Operators are free to set gas prices.

4.64. The Democratic Republic of the Congo adhered to the Extractive Industries Transparency Initiative (EITI) in 2005 and was accepted as a "Candidate Country" in November 2007. It was declared a "compliant country" by the EITI Board on 2 July 2014. Since joining the EITI the DRC has so far published eight reports on the years 2007 to 2014, essentially covering industrial mining and petroleum exploitation.

4.2.2 Mining products

4.65. The Congolese subsoil holds a wealth of very varied mineral resources which have yet to be properly identified and evaluated. The mining sector remains the spearhead of the country's economy in terms of its contribution to GDP and economic growth (Section 1). It continues to be driven by the performance of the copper-cobalt subsector, whose volume of production reached 1,065,744.39 tonnes for copper and 56,474.96 tonnes for cobalt in 2014 (Table 4.3)

[20] The components of the petroleum product price structure are laid down by Interministerial Orders Nos. 06/CAB/MIN-ECO&COM/2012, 08/CAB/MIN/HYDRO/2012 and 05/CAB/MIN/FINANCES/2012 of 14 December 2012 establishing the procedures for reviewing the structure of ground and aviation fuel prices.

Table 4.3 Cobalt and copper production trends, 2008-2014

(Thousands of tonnes)

	2008	2009	2010	2011	2012	2013	2014
Cobalt	n.a.	40.0	60.0	59.0	50.0	54.0	56.0
% of world production	n.a.	49.9%	56.1%	54.6%	49.5%	49.1%	50.0%
Copper	230.0	330.0	420.0	530.0	660.0	970.0	1,100.0
% of world production	1.5%	2.1%	2.6%	3.3%	3.9%	5.3%	5.9%

n.a. Not available.

Note: Estimates for the Democratic Republic of Congo.

Source: US Geological Survey, Mineral Resources Programme. Viewed at: http://minerals.usgs.gov/minerals/index.html.

4.66. The DRC accounts for over 50% of world cobalt production and about 6% of world copper production. Mining represents on average 75% of the country's total exports (Table 4.4). Other minerals currently being exploited include amethyst, bauxite, bismuth, cassiterite (tin ore), wolframite (tungsten ore), colombite-tantalite (coltan), coal, cobalt, copper, diamonds, gold, manganese, tourmaline, germanium, silver, zinc, and various precious stones such as sapphire, and other mineral substances, as well as mineral waters.

Table 4.4 Production, export and import of metals in the DRC, 2008-2014

	2008	2009	2010	2011	2012	2013	2014
Exports (US$ million)	**3,162**	**2,066**	**4,411**	**5,059**	**5,940**	**6,381**	**6,023**
% of total exports	*84.0*	*73.6*	*76.2*	*71.3*	*82.9*	*78.4*	*80.3*
	(% of total minerals and metals)						
Copper and articles thereof	16.6	29.9	44.1	49.1	58.5	53.3	49.3
HS 7403 Refined copper and copper alloys, unwrought	5.8	20.0	33.3	33.9	44.0	43.7	42.2
HS 7402 Unrefined copper; copper anodes for electrolytic refining	10.6	9.1	10.2	14.6	12.3	8.5	6.6
HS 7404 Copper waste and scrap	0.1	0.1	0.1	0.2	0.2	0.3	0.3
Ores, slag and ash	49.1	46.4	37.5	35.7	24.8	30.9	32.8
HS 2603 Copper ores and concentrates	18.9	18.6	14.8	17.6	14.7	22.0	21.3
HS 2605 Cobalt ores and concentrates	29.6	27.3	22.1	17.7	9.1	7.7	9.8
Other base metals; cermets; articles thereof	17.7	14.1	13.0	9.6	9.5	9.8	12.5
HS 8105 Cobalt mattes and other intermediate products of cobalt metallurgy	17.7	14.1	13.0	9.6	9.5	9.8	12.5
Pearls, natural or cultured, gem stones or the like, precious metals	15.8	8.2	4.0	4.6	6.6	5.4	5.0
HS 7102 Diamonds, worked or not, not mounted or set	15.8	8.1	4.0	4.5	6.2	5.0	4.2
HS 7108 Gold unwrought or in semi-manufactured forms, or in powder form	0.0	0.1	0.0	0.1	0.4	0.4	0.8
Iron and steel	0.3	0.2	0.2	0.1	0.1	0.1	0.1
HS 7204 Ferrous waste and scrap, remelting scrap of ingots of iron/steel	0.1	0.1	0.0	0.0	0.1	0.1	0.1
Imports (US$ million)[a]	**725**	**461**	**690**	**734**	**1,075**	**1,177**	**980**
% of total imports	*18.6*	*14.4*	*15.8*	*14.3*	*17.5*	*16.7*	*14.6*
	(% of total minerals and metals)						
HS 2523 Hydraulic cements	8.5	14.3	10.8	12.0	8.7	19.5	12.2
HS 7308 Structures and parts thereof	12.9	9.3	10.9	11.9	14.3	8.8	10.5
HS 7210 Flat-rolled products of iron or non-alloy steel	4.3	5.6	4.2	3.7	4.0	5.5	7.3
HS 2522 Quick lime, slaked lime and hydraulic lime	1.0	4.1	3.6	6.8	5.2	4.2	5.3
HS 7326 Other articles of iron or steel	1.8	3.1	2.5	2.3	1.9	2.5	3.9
HS 7306 Other tubes, pipes and hollow profiles of iron or steel	3.9	4.0	3.6	5.0	3.6	2.8	3.5
HS 3102 Mineral or chemical fertilizers, nitrogenous	1.2	1.0	1.1	0.5	1.0	1.3	2.6
HS 2503 Sulphur of all kinds	0.7	0.5	1.5	0.7	1.6	1.7	2.5
HS 7214 Bars and rods of iron or non-alloy steel	3.4	4.4	3.8	2.8	2.0	2.3	2.3
HS 7117 Imitation jewellery	0.0	0.1	0.1	0.1	0.0	0.0	2.2

a Data for Saudi Arabia not available in 2014. In 2013, exports to Saudi Arabia represented 10% of total imports.

Note: WTO product groups: 2601-17, 2620, Chapters 72-76 (except 7321-22), Chapters 78-83 (except 8304-05), Chap. 25, 2618-19, 2621, 2701-04, 2706-08, 2711-15, Chapter 31, 3403, Chapters 68-71 (except 6807, 701911-19, 701940-59), 911310-20. The main products are identified on the basis of their 2014 trade value.

Source: WTO Secretariat estimates, in mirror statistics, based on the UNSD Comtrade database.

4.67. The regulatory framework has not changed since the previous TPR in 2010.[21] The mining sector continues to be governed by the Mining Code of 2002. The DRC's mining policy is based on guiding principles which include the exclusive, inalienable and imprescriptible ownership of the State over the Congolese soil and subsoil, the opening of the sector to national and international private investment, and the definition of an appropriate legal framework for small-scale mines and artisanal mining.

4.68. The Mining Code also establishes a mining property registry, and a single tax and customs regime applicable to all mining operators. According to the authorities, this regime is exhaustive, exclusive, competitive and attractive, seeking to establish a balance of profits between the State and investors. Between 2002 and 2014, the number of mining enterprises rose from 35 to 260. However, the State undertook a rationalization of mining title deeds which reduced them from 6,000 to 2,510 at 31 December 2014. Nevertheless, despite this consolidation the structure of the Congolese mining industry remains bimodal. On the one hand, there is a vast artisanal sector mining for diamonds (almost entirely informal), gold (also mostly informal), and to a lesser extent other minerals such as coltan and cobalt. On the other hand, there are some multinationals such as Freeport McMoran, Banron, Ashanti Gold, Rand Gold, Anglo Gold, and Anvil, which operate in a structured manner in the formal sector. Despite the attractiveness of the Mining Code, the DRC has difficulty in attracting major multinationals to the sector and some have either suspended production (as in the case of Glencore) or left the country altogether (as in the case of First Quantum Minerals).

4.69. Holders of operating permits must pay fixed fees for the grant of the permits; royalties that depend on the area exploited; an extraction tax at a rate that varies with the nature of the substances; an *ad valorem* tax; and a multitude of other taxes and charges. According to the FEC, the fiscal burden on the mining sector is around 56% of earnings, to which must generally be added 15-25 percentage points in the form of informal payments. The combination of the two give an overall rate of taxation of close to 80%. According to some estimates, the DRC ranks second in the world in terms of taxation of the mining sector. It is likely that such a heavy fiscal burden acts as a strong disincentive to external investment, particularly when added to recurrent political and military disturbances in the east of the country, a region rich in mining resources.

4.70. This heavy fiscal burden appears to be related, *inter alia*, with the proliferation of intervening government agencies with the power to tax. These include the Directorate-General of Customs and Excise (formerly OFIDA), the Directorate-General of Administrative and Government Property Revenue (DGRAD), the Directorate-General of Taxation (DGI), the decentralized administrative bodies, as well as the agencies that invoice largely superfluous services, such as the Centre for Valuation, Expertise and Certification of Precious and Semi-precious Mineral Substances (CEEC), the National Intelligence Agency, and the OCC. The lack of coordination among these fiscal and parafiscal actors exacerbates fiscal pressure, none of those intervening having an overall vision. According to the FEC, the *modus operandi* of the fiscal and parafiscal actors often consists in identifying a problem – whether real or not – in a company's operations and imposing fiscal penalties together with a "payment note" and penalties of up to 40%, payable immediately, either in cash or into a separate account. The remainder may then be negotiated downwards.[22]

4.71. The mining sector could be a vehicle for the development of the country. Through the upstream links with transport, security, catering and cleaning services, vehicle maintenance and repair, health and security equipment, earthworks, electrical equipment and rubber, the mining sector could have a huge industrial carry-over effect. Thus, the agricultural sector could also benefit from the demand generated by the wages paid in the mining sector, as several mines in Katanga currently import much of their food. Downstream, prospects for the local processing of raw materials could become a reality, thus solving the problem of the high cost of transporting them. However, change is slow in coming to the sector and private investment in processing plants on Congolese soil is still lacking.

4.72. The mining sector faces several challenges, of which the most important remain: the lack of suitable infrastructure, including transport; the energy deficit; the lack of geological studies and data; the very low domestic supply of inputs and services that are essential for geological and mining activities; and the absence of financing and credit mechanisms targeted at the mining

[21] WTO Document WT/TPR/S/240/Rev.1 of 29 March 2011.
[22] FEC (2007) and FEC interviews with the WTO Secretariat staff mission to Kinshasa in June 2015.

industry on the Congolese market. Nevertheless, despite the enormous potential of the mining sector, with the exception of a few initiatives the DRC does not have any coherent global or sectoral policy for the promotion and development of this sector.

4.73. There is not much importation of mining products; imports are subject to duty at an average rate of 7.1% for the extractive industries and 15.6% for non-metallic mineral products, with a minimum of 5% and a maximum of 20%, not to mention the other import levies and taxes (Section 3.2).

4.2.3 Mining policy by product

4.74. The DRC has huge mineral resources, in particular some 60 to 75% of the world's cobalt reserves, 10% of its copper reserves, 30% of its diamonds and a considerable potential in gold, uranium and manganese. The DRC's mineral resources may be grouped in the following subsectors: copper-cobalt, tin, gold, iron, diamonds, fossil fuels and other mineral resources. However, the carry-over effect of the mining sector on other sectors remains limited, including in terms of the contribution to national income and employment.

4.75. The DRC participates in the Kimberley Process (KP) certification system, which defines the conditions for controlling the production and trade of rough diamonds in order to ensure that they do not serve to finance armed conflict. The DRC is not a signatory to the WTO KP waiver[23] and has not notified any measures taken to implement the certification system. Since 27 June 2013, the DRC has implemented the certificate of origin of the International Conference on the Great Lakes Region (ICGLR) covering traceability of gold, coltan, wolframite and cassiterite.

4.2.3.1 Copper and cobalt

4.76. The authorities estimate reserves at about 750 million tonnes of copper and 7 million tonnes of zinc, mostly situated in the province of Katanga but also in Kasaï-Oriental, Bas-Congo and Équateur provinces. The DRC's cobalt reserves are evaluated at 2.5-3.5 million tonnes, representing 60 to 75% of world reserves. The DRC's cobalt production comes primarily from Katanga province through copper extraction (about 38% of world production) and nickel co-production (about 39% of world production).

4.77. The company Générale des Carrières et des Mines (Gécamines), alone or in partnership with private companies, exploits copper, cobalt and zinc in Katanga province. Some foreign-owned private companies that held exploration permits launched major exploration campaigns from 2002 onwards following the promulgation of the Mining Code. They used modern techniques and procedures and obtained positive results, the most remarkable of which was the discovery in 2012 by IVANPLATS of one of the biggest high-grade copper fields in the world in Kamoa, in Katanga province. The field contains over 739 million tonnes of copper graded at 2.76%, at a minimum 1% economic threshold, and is not yet exploited. Nevertheless, much of current cobalt production comes from the numerous small-scale mining operations that mainly export on an informal basis.

4.78. Gécamines (a State-owned company) holds exploration permits that it does not use, owing to lack of capacity; these permits were ceded to private companies that exploited them. Gécamines has signed an agreement with a consortium of Chinese firms to establish a business partnership worth US$6 billion over a period of 25 years. In this partnership, called Sicomines, the Chinese consortium would hold 68% of shares and Gécamines 32%. Sicomines will begin production in July 2016 with a capacity of 250,000 tonnes of copper per year, limited to 105,000 in 2016 because of energy problems; 475 jobs will be created, 319 for Congolese nationals and 156 for expatriates.

4.79. The management of mining contracts in the DRC is a problem. The sale of several mining titles at rock-bottom prices to intermediaries who almost immediately sell them on at 10 to

[23] In 2003 the WTO General Council agreed a waiver, from 1 January 2003 to 31 December 2006, with respect to Articles I:1, XI:1 et XIII:1 of the GATT 1994 relating to measures for the implementation of the KP certification system.

15 times the price has led the IMF to suspend all financial support to the country since 2011. According to the authorities, all mining contracts are currently published on the Ministry website.[24]

4.80. The customs duty on copper (HS 2603, copper ores) and on cobalt (HS 2605, cobalt ores) is 5%, not to mention the multitude of other levies and taxes, as well as various controls and their associated charges.

4.2.3.2 Tin

4.81. In the case of tin, mineral resources are estimated at 800,000 tonnes for cassiterite and 455,000 tonnes for lithium. These resources are essentially located in the north and south-east of the country, primarily in the provinces of Katanga, Maniema, Sud-Kivu and Nord-Kivu. Currently, small-scale miners produce the bulk of tin. At present, SAKIMA (formerly SOMONKI) has the largest number of exploitation permits (36) but unfortunately it is not in the production phase. Small-scale miners encroach upon the perimeters of its exploitation permits. Several other mining companies are at the exploration phase, in particular Mining and Processing Congo, whose BISIE field is potentially the biggest in terms of cassiterite, under their exploration permits with a view to discovering cassiterite and tin deposits.

4.82. The customs duty on coltan is 5%, not to mention the multitude of other levies and taxes, as well as various controls and their associated charges. The Government has no sectoral policy.

4.2.3.3 Diamonds

4.83. The DRC possesses over 700,000 carats of diamond, primarily in Kasaï-Oriental, Kasaï-Occidental, Bandundu, Équateur and Province-Orientale. Industrial diamonds are mined and marketed by Minière de Bakwanga (MIBA), whereas jewellery diamonds are mined and marketed by a number of private companies in the two Kasaï provinces and by small-scale miners in the artisanal mining zones established in these provinces.

4.84. Alluvial diamonds are exploited on a small scale by about 500,000 miners. A large quantity of diamonds produced in the DRC, plus diamonds from other countries introduced fraudulently into the DRC, is exported informally. This is partly due to the shortcomings of the control mechanism of the CEEC.[25] The accession of the DRC to the Kimberley Process in January 2003 has failed to bring about a significant reduction in the illegal traffic since it still accounts for between 30% and 40% of trade.

4.85. Diamond exports are subject to a tax of 3.75%, the revenue from which is divided up between government services and the producing regions.

4.86. The sector is heavily protected. The customs duty on diamond imports is 20% (HS 7102). Diamonds are also subject to a myriad of other levies and taxes, as well as to multiple controls and the associated charges (Section 3).

4.2.3.4 Gold

4.87. According to the authorities, the DRC has 10% of known world gold reserves. Currently, gold resources are estimated at 750 tonnes, spread over the regions of Orientale, Maniema, Katanga, Bas-Congo, Nord-Kivu, Sud-Kivu and Équateur provinces. Previously exploited only by the Kilo-Moto Gold Mines Office, a State-owned company, now the Société minière de Kilo-Moto (Sokimo), the mines of Mongwalu, D7 Kanga and neighbouring mines are under concession to Sokimo partner companies, such as Randgold Resources, and AngloGold Ashanti. The exploration programmes of other Sokimo partners are in progress. Some joint companies are at the production phase, including Banro de l'Or under the Twangiza project.

4.88. The sector is heavily protected. The tariff on imported gold is 20% (HS 71081). As in the case of diamonds and most mining products, in addition to customs duty, gold is also subject to

[24] Online information of the Ministry. Viewed at: www.mines-rdc.cd/fr.
[25] The CEEC is the public agency responsible for implementing the Kimberley Process in the DRC.

a multitude of other levies and taxes, as well as to multiple controls and their associated charges (Section 3).

4.89. A country such as the DRC, bursting with reserves of raw materials, has no interest in protecting the local production of precious stones and metals. The advertised objective of the heavy protection appears to be to encourage the processing of these materials; however, no national structure has been provided for this purpose. Furthermore, the heavy taxation of both imports and exports, combined with levies and controls of all descriptions, reinforces the loss of competitiveness of the mining industries in general and of Congolese precious metals (diamonds and gold) in particular. These measures encourage the fraud and contraband observed in the trade of these products, besides being unlikely to encourage investment in this sector. It should also be noted that despite all the potential offered by the subsector, the Government has no sectoral policy for its promotion and development. As in the case of wood, the positive escalation of the tariff structure is not likely to encourage processing for export.

4.2.4 Electricity and water

4.90. Two major reforms have taken place in the electricity and water sectors since the previous TPR in 2010. These are the reform and liberalization of the electricity sector, and the promulgation of the Water Code of 31 December 2015.

4.91. Law No. 14/011 of 17 June 2014 on the electricity sector in the DRC has been promulgated and now establishes the liberalization of all branches of the sector, namely production, transport, distribution and marketing, as well as importation and exportation. This new legal framework also provides for institutional architecture, including in particular an electricity regulatory authority and a public institution responsible for the promotion and financing of electricity projects in rural and semi-urban areas.

4.92. This reform opens the way for private enterprise and the development of partnerships. The Government thus intends to speed up the construction of a national electricity market that is more attractive for national and foreign private investment, so as rapidly to remedy the country's energy deficit, and also to cater for a regional electricity market.

4.93. The DRC has the largest energy potential in Africa (estimated at around 100,000 MW). However, only 3% of this potential is being exploited. Generating capacity amounts to 2,459 MW, of which 2,417 MW corresponds to hydroelectric and 42 MW to thermal generation. As the country's electricity requirements are estimated at 1,300 MW while the current level of production of the National Electricity Company (SNEL) is around 700 MW, there is a shortfall of 600 MW. Only 6% of the country's households are connected to the grid, whereas in Kinshasa 40% of households have access to electricity (Table 4.5). The penetration rate, i.e. the ratio between electrified and identified localities, is estimated at 1.4 in a thousand, well below the average of African countries (41%).[26]

Table 4.5 Electricity, 2010 and 2015

	2010	2015	
		SNEL	DRC
Current capacity (operable)		1,022.05 MW	1,690 MW
Annual production	7,517,218 GWh	8,929,934 GWh	10,140 GWh
Annual exports	429,894 GWh	58,248 GWh	58,248 GWh
Distribution losses	60%	14%	14%
Coverage (access) or electricity supply	9.34%	n.a.	15%

n.a. Not available.

Source: Information provided by SNEL and the Congolese authorities.

4.94. Despite its *de facto* monopoly, SNEL is incapable of fulfilling its statutory missions and there are numerous power cuts (some 180 a year). Sudden power outages remain a major problem and oblige many consumers and companies to rely on standby generators. The cost of a stable supply, by a generator running on a continuous basis, remains very high. Moreover, facilities are

[26] Address of the Head of State to the nation, Kinshasa, 15 December 2015.

maintained and repaired on an ad hoc basis and only in response to emergencies; the equipment is obsolete or inoperative.

4.95. The Congolese electricity production, transport and distribution system remains fragmented and insufficient to satisfy the entire territory of the country. The present system comprises five main networks (North, East, Centre, South and West). Each of these operates independently, linking the power plants with consumption centres. However, the West and South networks are interconnected. In order to reduce the electricity shortfall, it is planned to rehabilitate the old power stations and build new hydroelectric plants, including those of Grand Inga.

4.96. The Grand Inga project is planned to be carried out in seven phases, and will comprise six hydroelectric plants (INGA III, INGA IV, INGA V, INGA VI, INGA VII and INGA VIII) with a total estimated capacity of 42,000 MW. The optimal development study for the INGA site and its interconnections also included considering the feasibility of the INGA III low-head power station project.

4.97. The project is to be implemented under a private-public partnership (PPP). The procedure for the selection of the private partner is under way. It was launched in 2010 and led to the preselection in February 2012 of three candidate developer/concessionaire groups, followed in February 2016 by the sending of the "bid phase" tender documents to these groups. Bids are to be submitted in June 2016. The choice of the concessionaire is expected to take place at the end of August 2016, and the partnership contract could be signed in late 2016. The INGA III low-head project is scheduled for implementation in six years' time and should result in a hydroelectric power station with an installed capacity of 4,800 MW. The power from Inga III is planned to be distributed as follows: 1,300 MW for the mining industry in Katanga; 1,000 MW for the SNEL; and 2,500 MW for South Africa.

4.98. The feasibility studies estimate the cost at US$12 billion. However, the cost of the project will be determined only after the bids have been received. The multinational donors (ADB, WB) are supporting the DRC in the implementation of this project.

4.99. For the governance of the project, the Grand Inga Development and Promotion Agency (ADPI-DRC) was set up by Ordinance No. 15/079 of 13 October 2015, and a Special Adviser to the Chief of State has been appointed at ministerial level to head the ADPI-DRC (Ordinance No. 15/080 of 13 October 2015). The Office of the President of the Republic now runs this project.

4.100. The abundance of natural water resources, both surface and underground, in the DRC (about 53% of Africa's fresh water reserves) contrasts with the low levels of access to and availability of drinking water. According to the Congolese authorities, only 23% of the country's population is being supplied with drinking water (41.5% in urban and 12% in rural areas). Out of an installed production capacity estimated at 361,289,900 m^3, REGIDESO, a State-owned company with a *de facto* monopoly, annually produces 238,900,427 m^3, which corresponds to a utilization ratio of 66%. The minimum global demand for drinking water is 3.2 million m^3 per day as compared with a daily production of 0.75 million m^3. Thus, there is a drinking water deficit of 2.45 million m^3 per day.

4.101. In order to reduce this deficit and revitalize the sector, since 31 December 2015 the Government has liberalized the production, distribution and transport of water, but not its export. It is also according priority to the revival of the rural water engineering programme, the completion of the water supply works in progress, the boring of new wells and the improvement of the distribution network. With regard to infrastructure, the Government has made efforts to improve electricity and drinking water supply in both urban and rural areas. These efforts include the rehabilitation of the existing infrastructure managed by the national electricity and water companies (SNEL and REGIDESO); the construction of new infrastructure such as the Matebe power station inaugurated on 16 December 2015 with a capacity of 12.6 MW; the rehabilitation and strengthening of installations; the search for alternative solutions, such as solar energy; and energy imports.

4.102. As a result of these various measures, between 2013 and 2015 the national electricity supply rate rose from 9% to 15%, which remains low compared with the African average of 30%. The national drinking water supply stands at 26% compared with an African average of 60%.

4.103. The Government has taken a number of steps to improve access to electricity and water. This has led to measures to facilitate and streamline procedures for access to electricity, reduce the time-frames and costs of medium-voltage connection to the SNEL networks. The cost of connection has fallen from US$28,801 in 2011 to US$15,247 in 2015, a reduction of 47%.

4.104. Tariffs for the electricity consumed by households are fixed by consultation between SNEL and the State, while the tariffs for industrial customers (large consumers) are negotiated between the customer and SNEL. In the case of water, prices are administered by the Ministry of the Economy through the Tariff Monitoring Committee on which the Ministry of the Economy, the Ministry of Energy, the Ministry of Finance, the Ministry of the Budget, the Ministry of State-owned Enterprises, SNEL and REGIDESO, the National Energy Commission and the FEC are all represented. Notwithstanding the liberalization measures for water and electricity, prices remain very low and regulated, which does not tend to encourage investment.

4.105. Imported electricity and petroleum products are subject to a customs tariff of 10%, with rates that vary between 5 and 20%, not to mention other levies and taxes (Section 3). At the international and subregional level, the DRC is a participant in the International Commission for the Congo – Oubangui – Sangha Basin (CICOS) and the Nile Basin Initiative (NBI).

4.3 Manufacturing

4.106. The manufacturing sector contributes very little to the country's GDP (1.1% in 2013) (Section 1). The main activities consist of a few small production units in the agri-food, chemicals, beverages, tobacco, building materials, textiles and clothing, metal recycling, and wood processing subsectors.[27] The DRC remains a net importer of manufactures, primarily machinery and transport equipment, non-electrical machinery and other semi-finished articles (Section 1). The considerable potential for growth and diversification of Congolese manufacturing would benefit from better use of the available resources and a strengthening of linkages with other sectors of the economy, in particular agriculture and the extractive industries.

4.107. The manufacturing sector has long suffered from the socio-political crisis which has gripped the country in recent decades. Processing units have been cut off from their sources of supply, which has made it difficult for them to operate. The sector is currently characterized by its low level of competitiveness due, in particular, to obsolescence of the industrial base and the heavy burden of factor costs. The shortcomings in terms of basic infrastructure and qualified manpower continue to impede the growth of industrial activity. The lack of a reliable electricity supply is one of the main constraints; most operators in the sector are still obliged to resort to their own thermal generating capacity, which further reduces their competitiveness.

4.108. The Ministry of Industry (MIND) is responsible for implementing industrial policy, but the country does not currently have a clear industrial policy. The efforts to draw up an industrial policy led to an Industrial Policy and Strategies Paper (DPSI), adopted in 2011. The Paper focuses on the promotion of four priority areas, namely, agro-industry based on agri-food with cassava, palm oil, coffee and tea; mining and metallurgy; building materials; and packaging.

4.109. The DRC has decided to implement a regime of special economic zones (ZES) under Law No. 022/14 of 7 July 2014. This regime offers several fiscal and customs advantages in order to attract both foreign and local investment and develop business. The first pilot site was opened at Maluku on the outskirts of Kinshasa. At the same time the State has signed a mutual cooperation agreement with India for the installation of incubation centres in the DRC as well as for industrial potential evaluation and feasibility studies to identify development sectors and opportunities for SMEs in the DRC.

4.110. According to the FEC, Congolese enterprises buy more than 50% of their inputs and sell at least a quarter of their production abroad. Consequently, trade policy, particularly duties and taxes and other border measures, has a significant impact on the sector. Moreover, some segments are faced with strong competition from informally produced and smuggled goods, in particular in the

[27] UNIDO Statistical Country Brief.

textile and clothing and basic cereal product industries, where the informal sector and smuggling are believed to account for around 40% or even as much as half of production.[28]

4.111. Again according to the FEC, overall the business environment remains very difficult.[29] Among the factors that are making it particularly hostile, the FEC mentions: (i) a proliferating, complex and non-transparent system of taxes levied by a multitude of bodies at every level (44 of them at the customs cordon; down from 117 in 2010), with the interpretation of the rules often being left to the discretion of the officials concerned; (ii) the generalized corruption of public services, reflected in omnipresent racketeering and widespread "facilitation" charges; (iii) the high cost and uncertain outcome of legal proceedings; and (iv) an uninviting Investment Code which, in particular, does little to attract agricultural and agro-industrial enterprises, whose investments are generally long term and relatively high risk.

4.112. The principal trade measures applied to the manufacturing sector consist of rather irregular protection rates that depend on the branch of production. Some of the most important branches (food products, beverages, tobacco, and wood and wood products) operate with levels of tariff protection ranging from 10 to 20%, not to mention other import levies and taxes (Section 3 and Table A4.1). Moreover, textiles and the chemical industry enjoy favourable effective protection, whereas the high nominal protection of the timber subsector does not distinguish between inputs and finished products (Section 3).

4.113. High customs duties are not calculated to encourage improvements in the competitiveness of processed food products; the same applies to the structure of these duties. For example, customs duty is around 20% on bakery, pastry and confectionary products; manufactured cocoa and chocolate products; and preserved fruit and vegetables (Table A4.1). In view of the preference shown by higher income groups for some of these categories of imported products despite their being heavily taxed, the solution for the problems of the local industries might also lie with improvements in quality.

4.114. An analysis by principal industry reveals important differences in terms of trade policy and performance. For example, the country has a dozen breweries whose main products are beer and aerated beverages (including mineral waters). Unlike most other manufacturing industries, the beverages industry has succeeded in increasing its value added. Local inputs include sugar, bottles, stoppers and labels, and packaging; on the other hand, barley and (barley) malt are imported. The customs duties on imports of competing products average 18.5%, with a rate of 20% on non-alcoholic beverages and mineral waters, not to mention other import levies and taxes (Section 3). The textile industry is protected by an average tariff rate of nearly 15% (Table A4.1), not to mention other import levies and taxes (Section 3). Despite the heavy protection, some major industries including CONGO TEX and SYNT EXKIN went bankrupt in 2007, in particular owing to declining cotton production, the decay of the road infrastructure for transporting the cotton, smuggling, and counterfeiting of their patterns on printed fabrics which are then imported into the DRC at prices with which it is impossible to compete.

4.115. The tariff structure does not encourage the subsectors concerned to improve their international competitiveness and hence their export performance, and is not likely to encourage investment in manufacturing. The Government's objective of adding value is undermined by such a tariff structure (Section 3.1.5.1). Overall, the tariff has slightly positive escalation from raw materials (9%) to semi-finished products (9.6%) and is clearly positive for finished products (12.7%). A more detailed two-digit breakdown (ISIC) shows that the overall tariff structure is above all the result of a positive tariff escalation for food products, beverages and tobacco; textiles and clothing; paper and paper articles, printing and publishing; and chemical products (Chart 3.2). The positive escalation for these industries suggests a rather high level of effective protection, which does little to boost competitiveness of the products concerned and hence their exports.

4.116. In order to promote industry, the State has taken various measures to improve the business climate and also to provide fiscal relief (Section 2). Thus, under the Investment Code, the Government has provided for exemption from duties and taxes for imports of machinery, tools and used equipment, as well as for original spare parts not exceeding 10% of the c.i.f. value

[28] BCC (2009).

[29] The DRC is ranked 178th among the 184 countries analysed by the World Bank in its *Ease of Doing Business 2015* and 158th out of 163 by Transparency International.

(Decree No. 12/046 of 1 November 2012). The financing issue has also been addressed to some extent by the promulgation of Law No. 15/003 of 12 February 2015 on leasing in order to provide an attractive mode of financing for SMEs/SMIs, so that they can overcome the difficult problem of obtaining medium- and long-term financing.

4.117. In addition, one of the instruments of the national industrial strategy remains the Industrial Promotion Fund (FPI), whose purpose is to mobilize resources for financing entrepreneurial initiatives concerning industry and SMEs, and thus act as a major catalyst for Congolese industry. Its interventions take the form of loans at preferential rates, shareholdings or subsidies. Between 2009 and 2013, total FPI financing rose from CDF 32.1 billion to CDF 49.3 billion, of which 95.8% consisted of loans. This action was directed primarily towards manufacturing industry, in particular agro-industry (59.55% of the 2013 total), as against support/maintenance (14.17%), water and energy (11.03%), agriculture and livestock (9.66%), building and public works (5.29%) and lastly applied research (0.29%).

4.4 Services

4.4.1 Overview

4.118. Services are an important sector for the DRC (Section 1). The country is a net importer of services. Exports of services consist predominantly of travel (tourism), which illustrates the country's great assets as a tourist destination, whereas transport is the main import item simply because the country is so far from its main markets.

4.119. Despite the vast potential for exports and the gradual liberalization of trade in services, this sector is experiencing problems stemming from the breakdown of infrastructure, outdated regulations and high taxation. By way of solutions, the main planks of the Government's services trade policy are institutional reform, improved access to services and boosting exports and regional integration. The Government also intends to improve efficiency of delivery. However, State intervention remains high, and as a result essential services are inefficient and costly. Service providers are subject to several taxes and a variety of controls (Section 3).

4.120. The DRC currently has no known sector-specific policy for promoting trade in services. Nevertheless, some attempts to design sectoral policies have been made, drawing on the Government's overall policy as embodied in the poverty reduction strategy paper. The Government is aware of the importance of trade in services for the country's economy and for tackling its various challenges and with the support of donors such as the World Bank, IMF and African Development Bank, has therefore undertaken a series of negotiated reforms of the economy and of the services sector in particular in the WTO, COMESA, SADC, and in the framework of the Economic Partnership Agreement with the EU that is under negotiation.

4.121. The DRC has undertaken GATS commitments in a number of service branches, namely business services, construction and related engineering services, communication services, education services, tourism and travel-related services, and recreational, cultural and sporting services.[30] Some of these branches are being opened up almost completely, and others only partially. The Congolese schedule includes some horizontal restrictions on market access. The Mode 4 restrictions take the form of measures governing entry and temporary stay for one year. These measures are subject to authorization that may be extended for senior executives and specialists who possess knowledge essential for the provision of the service concerned, without requirement of the economic needs test. Under Mode 3, the acquisition of real estate by foreigners is subject to authorization for all the services in the schedule, including both market access and national treatment. Access to land titles is also subject to authorization. The DRC did not participate in the WTO negotiations on basic telecommunications or financial services.

4.4.2 Telecommunications and postal services

4.122. Since the previous TPR in 2010 there has been no serious modification of the legal framework for this subsector, which remains governed by Framework Law 013/2002 of 16 October 2002. The Law separated the regulatory, oversight and operational functions and

[30] World Trade Organization (1995). WTO document GATS/SC/103 of 30 August 1995.

placed the subsector in a competitive environment designed to stimulate competition. It entrusted regulation of postal services and telecommunication/ICTs to the Post and Telecommunications Regulatory Authority of the Congo (ARPTC). In addition, two public actors are involved in operations, the Post and Telecommunications Company (SCPT) and the National Satellite Telecommunications Network (RENATELSAT).

4.123. Six operators are present in the mobile telephony segment, one operator in the fixed telephony segment and 25 in internet provision. In 2015, the mobile telephony market was shared among the South African operator Vodacom, Airtel RDC, the Belgian operator Oasis Telecommunications (Tigo), Orange RDC (French capital), Africell and Yozma (being installed, not yet operational). Two operators, Vodacom and Airtel DRC, which have two thirds of the market, dominate the market.

4.124. Information and communications technologies (ITCs) are booming in the DRC, to the point that this subsector has become the second source of income for the State budget after mining. ITCs have continued to attract investment of several hundred million US dollars every year. Illustrating the dynamism of the subsector, between 2012 and 2015 telephone penetration rates rose from 1% to 7.55% for internet and from 27% to 50% for mobile telephony, although with a disparity between the major urban centres and the rest of the country (Table 4.6).

Table 4.6 Main DRC telecommunications indicators, 2008-2014

	2008	2009	2010	2011	2012	2013	2014
Investment							
Annual investment in telecommunications (US$ million)	474.3	209.2	120.9	402.6	n.a.	n.a.	n.a.
Fixed telephony	2.1	1.5	1.3	[n.a.]	n.a.	n.a.	n.a.
Mobile telephony	472.2	207.7	119.5	402.6	n.a.	268.0	303.9
Revenue							
Total revenue from telecommunication services (US$ million)	n.a.	n.a.	595.4	815.8	998.9	1,012.7	n.a.
Fixed telephony	n.a.	n.a.	n.a.	0.4	0.3	n.a.	n.a.
Mobile telephony	1,191.3	726.5	644.3	791.0	998.6	996.5	987.0
Subscribers							
Telephone lines (per thousand)	37	42	42	57	60	0	0
Telephone lines (per hundred inhabitants)	0.06	0.07	0.07	0.09	0.09	0.00	0.00
Mobile telephony (millions)	9.9	9.5	11.8	15.6	20.1	28.2	37.1
Mobile telephony (per hundred inhabitants)	16.9	15.6	19.0	24.5	30.6	41.8	53.5
Prepaid mobile telephony (millions)	9.9	9.4	11.7	15.6	20.1	28.2	37
Internet statistics							
Broadband subscriptions (per thousand)	n.a.	n.a.	8.7	15.2	661.5	2,177.6	5,503.3
Broadband subscriptions (per hundred)	n.a.	n.a.	0.0	0.0	1.0	3.2	7.0
International internet bandwidth (bits per person)	50.2	50.2	245.7	1,042.8	724.8	538.6	384.5
Total telecommunications full-time staff	2,027	1,870	2,142	1,718	2,068	2,000	n.a.

n.a. Not available.

Source: International Telecommunication Union, Telecommunication/ICT Indicators, 2015 (CD ROM 2015) and Congolese authorities.

4.125. In October 2009, the DRC adopted the Development Strategy for the Telecommunication/ICT Sector in the DRC, a sectoral policy paper which served as the reference framework for government action over the period 2010-2015, with the overall objective of bringing the DRC fully into the global information society. The main planks of the framework were: to improve accessibility to telecommunication services; create a national and international high-speed infrastructure; guarantee universal access to ICTs throughout the territory; promote a competitive, coherent and innovative telecommunications market; and boost the contribution of ICTs to the country's economic and social development. To improve accessibility to telecommunication services, the Government is financing and installing backbone fibre-optic cabling for the public operator (SCPT), thus establishing the national infrastructure. About 4,000 km of cable have already been laid. This will guarantee countrywide universal access to ICTs, promote a competitive, coherent and innovative telecommunications market, and boost the contribution of ICTs to development.

4.126. The telecommunications law also addresses matters relating to monopoly, the status of the public telecommunications operator, the universal service and radio facilities.[31] The definition of universal service includes private residential fixed-line services, telephone booths, dial-up internet, emergency services, telecentres, and services for handicapped and elderly persons. The universal service obligations are to be financed from a universal service fund that is to be set up and funded by operators, but the fund has not yet been established.

4.127. Aside from the monopoly granted to the SCPT over the fixed-line network, telecommunication services are partially open to competition. As pertains to the universal service, the law provides for the right of every consumer to benefit from various types of high-quality telecommunication services, at a reasonable cost. In 2015 the Government also adopted and implemented a roadmap for the following State priorities in the subsector: deploying and exploiting 3,300 km of optical fibre; automation of government services, specialized services and border posts; enhancing governance and competition in the subsector by reorganizing the frequency spectrum and regulating markets; and updating the legal framework for the post, telecommunications and new information and communications technologies (PTNTIC) subsector.

4.128. The framework law imposes a blanket network interoperability and interconnectivity obligation which goes beyond that set out in the WTO reference paper on telecommunications, which is confined to dominant operators.[32] However, some improvements to the regulation of the telecommunications sector are needed. The termination cost on mobile networks (interconnection cost) is set by the Government, that is, the ARPTC, on the basis of cost modelling at US$0.034/minute and the cost of interconnection is negotiated between operators, under the supervision of the authorities, who adhere to the principle of cost-oriented tariffs, i.e. a floor rate of US$0.051 for intra-network and US$0.085 for interconnection services. Tariffs are thus set freely by operators, taking into account the floor rates set, and submitted to the ARPTC for its opinion. Over the period 2010-2015, competition has led to a steady fall in unit costs of mobile national and international calls.

4.129. Since the backbone network envisaged in the law has not yet come into being, mobile operators have developed their own infrastructure independently. Two problems arise in the present situation. First, the way in which frequencies are currently allocated reduces the space available for newcomers. The problem is not physical availability of bandwidth but rather its management, because some frequencies have been allocated to companies that were never set up or which are no longer operating. Second, the 2002 regulatory framework is ambiguous in that it could be interpreted as giving the Congolese Post and Telecommunications Office (OCPT) (or its successor) a monopoly on the entire transmission infrastructure. The OCPT has proved incapable of fulfilling its task and private operators have therefore set up their own infrastructure (mainly satellite links), the legal status of which is complex. This legal uncertainty could prove highly detrimental to future investors, especially in a business climate that has traditionally been subject to unexpected and radical changes. In order to address these problems, the Government is considering improvements to the whole regulatory framework.

4.130. According to the economic operators, the subsector is heavily taxed. The costs of operating licences or concessions are shown in Box 4.1.

[31] Democratic Republic of the Congo (2002). Framework Law No. 013/2002 of 16 October 2002 on telecommunications in the Democratic Republic of the Congo.

[32] The DRC has undertaken no specific GATS commitments regarding telecommunications and did not participate in the WTO negotiations on basic telecommunications that ended in 1997.

Box 4.1 Taxes and charges in the telecommunications subsector

I. Operating licences

1.1. Tax on the concession authorization or operating contract for public telecommunications services (licence):

- Telephony
  - Fixed-line
  - Fixed, wireless
  - Mobile

Note: Cost of acquisition by auction or at a price that may not be lower than that of the previous concession licence sold, namely US$65 million.

  - Implementation of generational variants (GPRS, EDGE, WAP, HSDPA, HSUPA, HSPA, H+, WiDEN, etc. LTE, WiMax, other): 10% of the previous licence

- By GMPCS satellite, mobile satellite telephony: US$30,000
- High-speed fibre-optic telecommunications network:
  - International connectivity: US$50,000
  - National connectivity: between US$50,000 and US$150,000
- Service provision:
  - Broadcasting (cable, wireless and satellite): US$25,000

1.2. Tax on the authorization to own, install and exploit transceiver earth stations:

(a) HUB (nodal) station:
  - Standard A: US$100,000
  - Standard B: US$60,000
  - VSAT: US$25,000

(b) Transceiver station:
  - Standard B: US$10,000
  - F1, F2, F3, ABS, other: US$1,000
  - VSAT station: US$500

1.3. Tax on the authorization to supply internet services:

  - To the public without own network: US$50,000
  - To the public with own network: US$150,000

1.4. Tax on the authorization to operate channels:

  - Sound broadcasting: US$12,500
  - Television broadcasting: US$25,000

II. Annual fees

1.5. Annual fee for concession holders (operators):

  - Mobile telephony: 2% of pre-tax turnover
  - Internet providers: 2% of pre-tax turnover
  - Broadcasting: US$25

1.6. Annual fee for earth station operation (all categories): 10% of cost of licence

Source: Information provided by the Congolese authorities.

4.131. Postal services are still governed by Law No. 012/2002 of 16 October 2002, which liberalized them. However, the law reserves for the historic public operator basic postal services such as reception, handling, transport and distribution of ordinary postal mailings, i.e. letters (up to 2 kg), postcards, literature for the blind, and printed matter and small parcels (up to 2 kg). For other services, the market is shared by a public operator and several authorized private operators that operate a local national or international network, as the case may be.

4.132. The contribution of postal services to the national budget remains very small, in the order of 0.5%. The combined effects of the past socio-political crises, on the one hand, and strong competition coupled with sluggish responsiveness to ICT expansion, on the other, have led to a decline in traffic and low postal density, especially as only 107 of the country's 365 post offices are operational.

4.4.3 Financial services

4.133. The financial system of the DRC is shallow and underdeveloped. It comprises 18 licensed banks; the National Insurance Company (SONAS) and the National Social Security Institute (INSS); 5 specialized non-bank institutions including the Congolese Savings Bank (CADECO), the Financial Development Company (SOFIDE) and the FPI; 143 microfinance institutions (MFIs) and cooperatives; 59 transfer institutions; 3 electronic money institutions, and 16 forex exchange bureaus. There is neither a stock market nor a debt capital market (Table 4.7).[33]

Table 4.7 Structure of the banking system in the DRC

	Number of institutions	Branches	Assets		Deposits	
			US$ million	%	US$ million	%
Commercial banks[a]	18	278	3,624.6	94,7	2,610.9	94.8
By size						
- Top five banks	5	n.a.	2,318.3	60,5	1,785.3	64.8
- Medium banks	6	n.a.	1,004.3	26,2	700.9	25.4
- Small banks[b]	7	n.a.	302.0	7,9	124.7	4.5
By ownership						
- Domestic-owned banks	5	n.a.	2,072.4	54,1	1,575.0	57.2
- Foreign-owned banks	13	n.a.	1,552.2	40,5	1,035.9	37.6
Non-bank financial institutions	228	421	204.5	5,3	144.0	5.2
Insurance companies	2	n.a.	13.6	0,4	n.a.	n.a.
- State social security/pension fund[c]	1	n.a.	n.a.	n.a.	n.a.	n.a.
- Insurance company[d]	1	n.a.	13.6	0,4	n.a.	n.a.
Microfinance[e]	143	208	190.9	5,0	144	5.2
- Cooperatives (COOPEC)	120	172	141	3,7	122.3	4.4
- Microfinance institutions	23	36	49.9	1,3	21.7	0.8
-- Deposit taking	5	n.a.	16.5	0,4	6.8	0.2
-- Non-deposit taking[f]	19	n.a.	33.4	0,9	14.9	0.5
Savings fund	1	82	n.a.	n.a.	n.a.	n.a.
Specialized financial institutions	2	27	n.a.	n.a.	n.a.	n.a.
Finance companies	2	2	n.a.	n.a.	n.a.	n.a.
Transfer institutions	59	83	n.a.	n.a.	n.a.	n.a.
Electronic money institutions	3	3	n.a.	n.a.	n.a.	n.a.
Currency exchange	16	16	n.a.	n.a.	n.a.	n.a.
Total	**246**	**699**	**3,289.1**	**100.0**	**2,754.9**	**100.0**

n.a. Not available.

a As of December 2012. Based on audited financial statements.
b Assets less than US$100 million.
c The pension fund operates more like a social security fund. It is funded through fees charged on salaries of existing workers.
d As of 2007. More recent data is not available. A monopoly insurance company established in 1966.
e As of end 2012.
f These institutions can only take compulsory deposits from their borrowers.

Source: Central Bank of the Congo (BCC).

4.134. One of the major reforms of the financial sector in the DRC is the liberalization of the insurance sector, given that the sector is still a State monopoly, through the National Insurance Company (SONAS). Law No. 15/005 of 17 March 2015 on the Insurance Code has been adopted and promulgated. It is supposed to enter into force in March 2016. It will open up and regulate the insurance market in the DRC and provide for the creation of an insurance regulatory authority.

4.135. In 2014 the DRC also adopted new foreign exchange regulations which establish the primacy of the national currency, the Congolese franc, on the national territory as the currency for the settlement of transactions. Transactions in the DRC may only be made in foreign currency by agreement among the parties. The law on leasing (Law 15/003 of 12 February 2015) which organizes leasing as a mode of financing for enterprises, particularly SMEs, has also been promulgated and should make it possible to improve their access to financing and further encourage and favour economic growth underpinned by the private sector.

[33] This section is based on IMF Report No. 14/315 of October 2015, DRC: *Financial System Stability Assessment,* supplemented by information and documentation provided by the Congolese authorities, including the BCC.

4.136. The State has pursued its action to clean up and strengthen the viability of actors in the banking sector, which has led to a rationalization of the number of banks to 18. The sector remains open; all banks are private and none is wholly Congolese-owned.

4.137. In order to boost financial inclusion, the Government has also taken steps to foster the use of banking facilities, including the payment of civil servants via bank accounts. However, the process is encountering difficulties owing to the limited coverage of bank facilities in the country, but could be strengthened by the rapid development of mobile banking services.

4.138. Although the Central Bank of the Congo (BCC) and the Congolese Government have undertaken reforms since the previous TPR, the Congolese financial system remains narrow, highly dollarized and characterized by weak balance sheets. Additional measures will be necessary to develop the payment systems, facilitate recourse to financial services and strengthen control over the non-banking sector. The consolidation and strengthening of the microfinance subsector and reform of the insurance and pensions subsector could facilitate the expansion of financial services and attract long-term investment. There is an urgent need to create a modern payment system and a credit registry to support the efforts aimed at strengthening the financial sector and dedollarizing the economy. Another pressing priority is to review the situation of a number of non-bank institutions that are facing serious operating and financial difficulties. In addition, there are major risks as regards money laundering, owing above all to the size of the informal economy operating on a cash basis, the large foreign exchange-related transactions and the buoyant domestic real estate market.

4.4.3.1 Banking services

4.139. Credit establishments must be set up as legal entities in the DRC. Subject to specific legal provisions, they must take the form of a public limited company (SA), which requires prior authorization from the President of the Republic, they must meet the minimum paid-up capital requirement set by the BCC (US$10 million) and fulfil a local and general economic need.

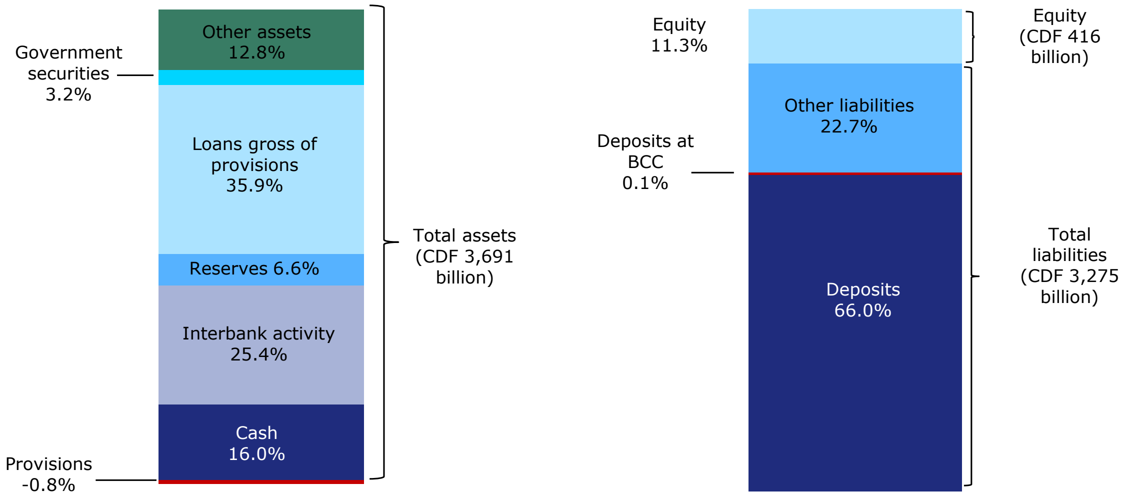
4.140. Commercial banks must obtain authorization from the BCC before launching their activities in the DRC. The application for BCC authorization must include: (i) an original copy of the statutes in the French language; (ii) a list of shareholders and managers; (iii) the setting up and organizational activities planned; (iv) a breakdown of the technical and financial resources that the credit establishment plans to utilize; and (vi) all other elements that can help inform the BBC's decision. The BCC has a 90-day period in which to ascertain whether the application complies with the requirements of the banking law and make a decision as to the granting or refusal of authorization. Once this deadline has passed, the bank may set up, pending the conclusion of the authorization procedure.

4.141. The requirements relating to establishment do not indicate *a priori* that there are restrictions on establishment within the meaning of the GATS, that is to say restrictions, whether or not discriminatory, on the number of providers, the value or volume of services, the assets of the providers, the number of employees, legal forms, limitation of participation by foreign capital, reservation of some advantages such as land ownership or subsidies, or tax advantages for domestic providers alone.

4.142. 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 financing the country's development. The number of bank accounts has increased significantly since the previous TPR, but the figure of some 500,000 bank accounts in 2015 for a population of 75 million is well below par.

4.143. Banks account for the bulk of the financial sector, with total assets estimated at US$3.6 billion (about 13% of end-2012 GDP) representing about 95% of the total assets in the financial system (Table 4.7 and Chart 4.1). Bank deposits account for the bulk of total deposits (95% of the financial sector's deposit), with the balance being held in the MFIs. Four of the largest banks are local and another is controlled by foreign holding companies (with ties to Congolese interests). The subsector is concentrated; by end 2012, the five largest banks held nearly 64.8% of bank deposits and over 60.5% of total bank assets.

Chart 4.1 DRC: banking system balance sheet



Source: IMF Report No. 14/315, October 2014.

4.144. Like the entire economy of the DRC, banks are highly dollarized. Bank funding is dominated by deposit collection, of which about 90% are in US dollars and in sight deposit accounts. About 94% of the loans are also in US dollars, as are 45% of overdrafts (less than one year). Clients are primarily companies with working capital deposits: loans target mainly daily operations and export/import activities. Deposit and lending rates are driven by developments in global US dollar markets, DRC country risk, and operational cost mark-ups. The central and local governments hold significant balances in some banks (earmarked dollar deposits for investments) but also borrow funds from a few banks to finance administrative expenses.

4.145. Correspondent transactions with associated banks abroad are a significant share of banks' activities. These correspondent accounts represent over 25% of banks' assets and over 98% of the interbank market activity. They allow banks to conduct the settlement of US dollar-denominated transactions, reflecting efforts to hedge domestic political and settlement risks. These holdings of dollars in correspondent accounts are particularly expensive for depositors (zero remuneration and subject to high transaction costs). However, lending rates and remuneration of client deposits are set freely by authorized banks in the DRC.

4.146. According to the authorities, the BCC is continuing to strengthen supervision of banks and microfinance institutions. Supervision has benefited from capacity building for the control of financial and prudential statements established in accordance with international accounting standards (IFRS). Efforts are continuing to be made with a view to carrying out comprehensive on-site inspections following risk-based supervision procedures (Table 4.8). This table shows the apparent solvency of the system as a whole (average ratios that are very high for a regulatory minimum of 10%). The low level of bad loans and the high provisioning rate for these could explain this apparent solvency. In addition, the proportion of large risk positions in relation to equity has declined slightly over time indicating the relative soundness and quality of the Congolese banking system during the period under review.

4.147. Moreover, the analysis of bank balance sheets and financial soundness indicators in the DRC shows: a predominance (over 50%) of liquid reserves in the bank's consolidated assets, i.e. cash in hand, at bank, at the Central Bank, and short-term advances; a relatively low proportion of outstanding loans relative to total bank assets; liabilities consisting predominantly of deposits, essentially sight (92%) and term (8%) deposits, reflecting the virtual non-existence of savings accounts as well as the abundance of short-term liquid reserves fuelling the interbank market; the high preponderance of sight deposits that can be withdrawn at any moment, with the corollary of a lack of long-term resources, stemming from a choice of operating in the short term, which undoubtedly reflects some reluctance *vis-à-vis* long-term loans and risks.

4.148. The apparent excess liquidity of banks in the DRC is also explained by the smallness of the interbank market, limited access to instruments such as treasury bills, and the lack of development of advanced payment systems (automated teller machines). The uncertainty and relative distrust surrounding the banking sector which is emerging from a long period of lethargy, the high propensity of the population to hold cash, the relatively unattractive remuneration of term deposits, together lead clients who use banks to confine themselves to sight accounts which can be withdrawn at will as necessary.

Table 4.8 DRC: Financial soundness indicators, 2010-2013

	2010	2011	2012	2013
Capital adequacy				
Regulatory capital to risk-weighted assets	28.8	29.7	28.3	24.5
Regulatory Tier 1 capital to risk-weighted assets	21.1	21.2	19.9	17.0
Asset quality				
Non-performing loans to gross loans	6.6	6.7	6.3	7.2
Non-performing loans net of provision to capital	10.0	10.0	8.3	7.0
Earnings and profitability	n.a	n.a	n.a	n.a.
Return on assets	0.7	0.6	0.2	0.9
Return on equity	7.9	6.4	2.7	11.7
Interest margin to gross income	26.0	32.0	31.0	33.0
Non-interest expenses to gross income	73.7	73.5	73.1	73.9
Liquidity				
Liquid assets to total assets (liquid asset ratio)	60.0	52.0	n.a	n.a
Liquid assets to short-term liabilities	123.0	119.2	121.3	122.0
Sensitivity to market risk				
Net open in foreign exchange position to capital	-5.0	1.8	5.2	-16.0
Foreign currency-denominated liabilities to total liabilities	76.2	77.4	n.a	n.a
Memorandum items				
Capital adequacy				
-SSA	19.4	20.9	n.a	n.a
- Fragile countries	24.3	34.7	n.a	n.a
Return on assets				
- SSA	2.2	2.2	n.a	n.a
- Fragile countries	1.7	1.0	n.a	n.a
NPLs to total gross loans				
- SSA	9.8	8.4	n.a	n.a
- Fragile countries	10.4	12.8	n.a	n.a

n.a. Not available.

Note: Prudential norms were altered throughout the observation period.

Source: Central Bank of the Congo (BCC), Directorate of Bank Supervision.

4.149. In any event, it seems that the general situation described above varies from one bank to another, as regards apparent solvency, liquid reserves or the predominance of credit operations in relation to total assets. In the absence of a detailed analysis of bank loan portfolios, it is hard to judge the real quality of the latter. The banking sector remains weak, despite apparently high capital adequacy ratios (Chart 4.1 and Table 4.8). The reliability of solvency and other financial soundness indicators is compromised by poor data quality, including because of weak application of the international best practices for accounting definitions and methods. For example, end-2012 data for some banks show zero provisioning, balance-sheet data reported to the Central Bank were inconsistent with audited statements, and low-risk weights are applied on exposures to foreign correspondents' assets, claims on the State and central government agencies, and collateralized claims.[34]

4.150. Thus, because overdrafts are the principal means of assisting enterprises in the DRC, it is not easy to evaluate the real risks. However, according to the information gathered, some banks appear to be restructuring overdrafts in advance so as not to have to consider them as bad loans, and others do not categorize commitments according to the risks they represent. Moreover, the data on non-performing loans appear unreliable; under the BCC's regulatory framework, many banks are only recording unpaid balances rather than the full amount of the non-performing loan.

[34] International Monetary Fund (IMF) (2014), *Financial system stability assessment,* IMF Report No. 14/315 of October 2015.

Analysis of banking trends is challenging, given changes in reporting requirements and prudential norms, as well as the entry and exit of banks.[35]

4.151. Banks' profitability and earnings are weak and deteriorating, reflecting high operational and foreign exchange costs. Fees are a main source of banks' revenue. Operating in US dollars is highly costly, especially for some banks, given that foreign currency settlements are done via correspondents (Table 4.8). Furthermore, under Article 3 of the foreign exchange regulations the BCC charges a control fee of 2‰ on all payments made to or received by licensed banks from abroad, as well as on all exports without repatriation of foreign exchange.

4.4.3.2 Non-banking financial services

4.152. Non-banking financial services (consisting of microfinance, insurance, pension funds and other specialized institutions), like the banks, are governed by the BCC regulations. Microfinance has been growing rapidly since 2011, but remains undeveloped.[36] By end-September 2013, the size of the microfinance subsector's balance sheet was close to US$222 million, with over a million accounts opened; savings and loans cooperatives accounted for 60% of the accounts and MFIs for the remaining 40%. These activities are largely concentrated in savings and loan services; and as in the case of the banks, deposits and loans are mostly in US dollars. Activity remains highly concentrated: two institutions account for 51% of deposits and 42% of the credit of the entire microfinance subsector.

4.153. The microfinance subsector has great potential to support financial inclusion, but it is underperforming (Table 4.9) and profitability is very weak. In 2013, only two institutions, accounting for 3% of the assets, were operationally self-sufficient.

Table 4.9 Number of microfinance institutions not meeting the regulatory norms in 2013

Key indicators	June 2013
Prudential indicators	
Solvency ratio	13
Liquidity ratio	2
Profitability indicators	
Operating revenues to operating expenses ratio	34
Operating expenses to the average gross loan portfolio	15
Return on equity	27
Return on assets	18
Capital levels	
Capitalization	30
Total number of institutions surveyed	36

Source: Central Bank of the Congo (BCC).

4.154. According to the authorities, the operational and financial difficulties affecting some savings and loans cooperatives (COOPEC) are linked to serious governance, financial management and internal audit deficiencies.[37] In addition, the National Microfinance Fund, a government initiative aimed at integrating vulnerable segments of the population into the financial sector with a US$2.5 million budget, has not yet started operations.

4.155. Law No. 15/005 of 17 March 2015 on the Insurance Code liberalizes the insurance market in the DRC.[38] Despite the publication of the new insurance law, and pending the actual opening up of the market, SONAS has a *de facto* State monopoly on the Congolese insurance market. SONAS is not currently able to meet the Government's mandatory insurance obligations (automobile

[35] IMF (2014).

[36] Savings and loan cooperatives have existed in the DRC for a long time, but many of them went bankrupt during the crisis years (1990s).

[37] By end-March 2013, 37 largely inactive institutions were put under involuntary liquidation status (34 COOPECs and three MFIs) and, by end-August 2013, 63 licences had been withdrawn.
By end-December 2013, eight out of the 23 MFIs faced difficulties in raising capital levels to the minimum required levels. Analysis of the subsector points to the need for its consolidation and the strengthening of supervision.

[38] Democratic Republic of the Congo (2015). Law No. 15/005 of 17 March 2015 on the Insurance Code.

third-party liability, sea, river, and air transportation, and fire hazard for certain buildings).[39] An audit undertaken by an international firm in 2012 identified a capital shortfall of about US$211 million, as well as numerous operational weaknesses.

4.156. Apart from the legal obligation for insurance companies to be public limited companies, the new Law No. 15/005 of 17 March 2015 on the Insurance Code does not contain any restriction on market access or national treatment for commercial presence in terms of the GATS, that is to say restrictions, whether or not discriminatory, on the number of providers, value or volume of services, assets of providers, number of employees, and reservation for national suppliers of some advantages such as land ownership, subsidies or tax advantages.

4.157. The new law also provides that Congolese companies may cover risks abroad if authorized by the foreign country's legislation. On the other hand, foreign companies may only cover risks situated in the DRC if they have a branch established in the national territory. Under Law No. 15/005 of 17 March 2015, mandatory insurance in the DRC consists of the following: automobile third-party liability, air transportation civil liability, sea, river and lake and inland waterway civil liability, builders liability, fire hazard insurance, and import cargo insurance. Insurance companies may provide both life and non-life services. They are free to set their premiums, which is currently done by SONAS, the only insurance company operating in the DRC pending the actual opening up of the market.

4.158. Pension services are provided by the National Social Security Institute (INSS), a public institution which offers very limited coverage (less than 1.6% of the active labour force). Management costs absorb the bulk of the social security contributions, which are among the highest in Africa (7% of wages for pensions). The INSS operates through a decentralized model of 45 centres. End-June 2013 estimates point to a shortfall in contributions to obligations of CDF 23.8 billion in 2015 (about 0.1% of 2013 GDP) and of CDF 229 billion in 2060 (1.4% of 2013 GDP). The actuarial liability of the social security system is estimated at 28.3% of 2013 GDP.[40] Strengthening the current system would require prompt action to streamline costs and significantly increase contributions.

4.159. The other non-banking structures include CADECO, the FPI and SOFIDE. The effectiveness of these three State institutions is very limited.

4.160. CADECO is a State-owned enterprise that provides financial services in rural areas. It handles the payment of CDF 146 billion in wages and CDF 47 billion in taxes of public enterprises' employees (2012 figures).[41] The company is in process of being restructured, and it has not had access to the BCC clearing house since 1996.

4.161. The FPI was established in 1989 to promote national industry by financing industrial projects. It draws its resources from the industrial promotion tax (TPI) levied on imports (2% of the c.i.f. customs value) and on domestic industrial production (2% of the industrial cost price).

4.162. In the course of 2014, the FPI collected US$76.3 million, of which 74.14%, or US$56.5 million, were devoted to project finance. It grants loans to the industrial sector in general and agro-industry in particular with three to five year maturity at an interest rate of 8-10% together with a grace period of between 6 and 12 months.

4.163. The FPI is not supervised by the BCC but does participate in the BCC's credit bureau and in the BCC's work in the context of migration towards the IFRS. The FPI's upstream risk management takes place at four levels: screening service, assessment service, credit committee and approval committee; and downstream management takes place at two levels, portfolio management and financed project supervision. However, the FPI possesses neither risk management nor operational audit tools.

[39] According to the FEC, a number of companies have taken out insurance services abroad after paying the mandatory premiums owing the limited capacity of SONAS.

[40] IMF (2014).

[41] It operates through its 93 operating centres in the country and its 669 employees. It also provides salary advances to its customers (CDF 4.8 billion by end-2012) at monthly rates of 5–10% interest for 6 months maximum. In 2012, non-performing loans from the Government reached US$46 million and the year results improved only because of a questionable reversal of US$29 million in provisions.

4.164. A 2015 parliamentary commission revealed serious problems in the governance of the FPI, 45.37% of whose total loan portfolio (about US$315 million) was in arrears at end-2014. It should be pointed out that this amount of about US$140 million represents the accumulated stock of arrears for the FPI's 25 years of existence. These loans are guaranteed by real property mortgages for which the FPI holds the title deeds. However, the administrative and legal machinery for enforced recovery is not conducive to enabling the FPI to recover these sums by these means.

4.165. In view of the difficulties it has encountered in recovering these debts, largely owing to the complexity of the administrative and legal procedures, the FPI has explored the institutional mechanism of recovery of public claims. To this end, it has submitted to the Government, through the Ministry of Industry, two texts that were adopted by its governing board. These are the draft law or Ordinance-Law granting the FPI the preferential right of the Public Treasury; and the draft Decree establishing the implementing procedures for the preferential right of the Public Treasury to be granted to the FPI.

4.166. SOFIDE is the financial development company with a large State ownership stake, with a mandate to promote the medium- and long-term financing of small and medium-sized enterprises (SMEs).[42] As part of its efforts to enhance SME financing in 2012, the Government injected US$22 million in capital, and some additional US$40 million is expected in the near future. By end-September 2013, SOFIDE had funded about 63 SME projects for US$20 million with three months to three and a half year collateralized loans at 15% interest. Oversight mechanisms are weak and SOFIDE lacks proper risk management controls; an independent review of its financial situation is needed.[43] Some form of collaboration with the banking system to reinforce SME financing could also foster greater effectiveness.

4.4.4 Transport

4.167. The DRC is bordered by nine countries and has a 40-km coastline on the Atlantic Ocean (Section 1). The country depends heavily on its neighbours for access to regional or international markets. Mobility within the country is one of the main challenges facing the DRC in order to achieve sustainable development. Multimodal transport therefore appears as a major issue to be addressed, and the DRC must optimize the potential of each mode, i.e. land (road and rail), river, lake, maritime and air transport.

4.168. The DRC is a country of subcontinental dimensions, much of which has no access to the sea. The distances to be covered and transport conditions act as a tax on exports, by increasing the transport costs for exported goods and the costs of inputs into the country. The World Bank estimates this additional cost at about 30 to 40% of the normal export cost.[44] These costs have many sources: the level of decay of rail and port infrastructure, both at Boma and Matadi, the slowness of customs procedures, security on roads (lack of security creates the need for controls and sometimes police escorts within the territory, which slows down traffic), and the state of roads. The high cost of building and rehabilitating new transport infrastructure, together with the equally high cost of transport, is a major constraint on economic development. The logistics performance index of the DRC, which is below the African average, indicates the country's poor performance in this field to bring about a substantial reduction in logistics and transport costs (Chart 4.2).[45]

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[42] Its activities were suspended between 1990 and 2012 after international assistance had ceased; its only revenue derived from the rental of its property assets and the granting of three- to six-month loans under a US$1.5 million portfolio.

[43] IMF (2014).

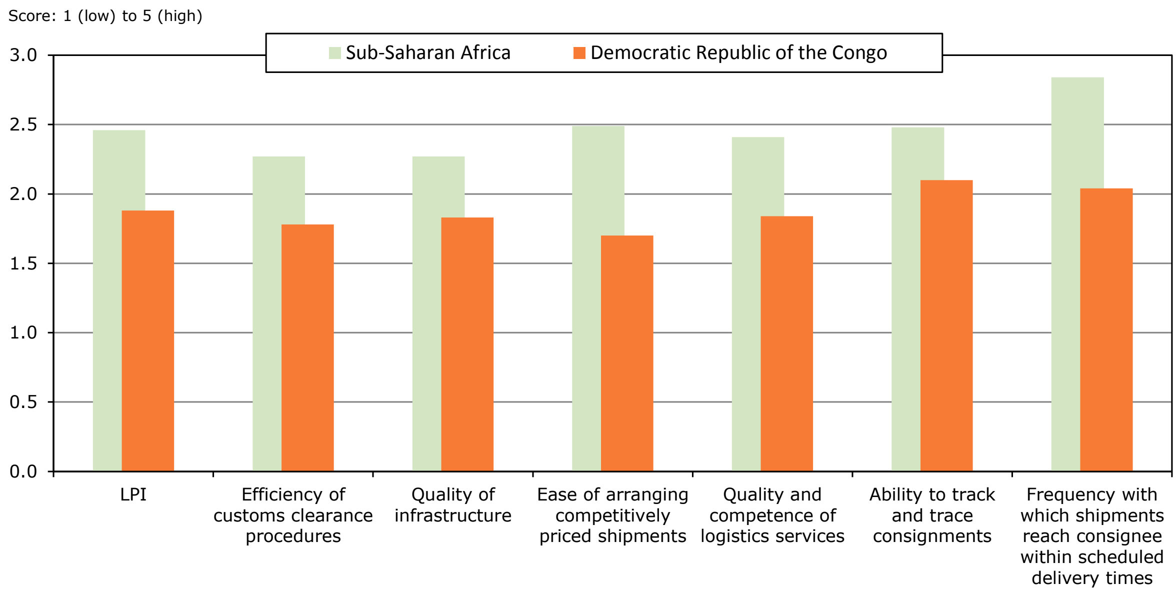
[44] World Bank (1996). Transport costs are in themselves a form of natural protection of which the level depends on their scale.

[45] The overall ranking of the Logistics Performance Index reflects perceptions of a country's logistics based on the efficiency of customs clearance procedures, the quality of trade and transport infrastructure, the ease of arranging competitively priced shipments, the quality of logistics services, the ability to track and trace consignments, and the frequency with which shipments reach the consignee within scheduled delivery times. The index goes from one to five, with the highest score representing the best performance. The data used in the ranking come from Logistics Performance Index surveys carried out by the World Bank in partnership with university and international institutions as well as private companies and professionals involved in the international logistics market.

4.169. The Constitution of the DRC establishes that maritime, river and lake navigation, air traffic management, rail transport, and the national highway network are all the responsibility of the central government alone. Three ministries are involved: the Ministry of Transport and Communications, the Ministry of State-owned Enterprises, and the Ministry of Public Works and Infrastructure. The Ministry of State-owned Enterprises and the Ministry of Transport and Communications share responsibility for supervising State-owned enterprises in the transport sector, and this poses problems of coordination.

4.170. Transportation in the DRC was previously a monopoly but is now witnessing the gradual entry of private-sector players in almost all modes of transport. Yet competition has come about in the sector with no clearly defined rules. One of the Government's priorities is to improve the efficiency of delivery of these services; however, State intervention remains high, which renders essential services inefficient and costly. All told, the government agencies involved in the transport sector in the DRC generate an estimated turnover of US$400 million, or between 3 and 5% of GDP. Service providers are subject to several taxes and various controls (Section 3).

Chart 4.2 Logistics performance indicator of the DRC, 2014



Source: World Bank. Viewed at: http://lpi.worldbank.org.

4.171. The transport sector is under the authority of the Ministry in charge of transport, which is responsible for formulating and implementing the relevant policy. The long-term objective is to open up the country both internally and externally. The actions envisaged address both infrastructure and the regulatory framework, and concern maritime, river and lake transport as well as road and air transport.

4.4.4.1 Maritime, river and lake transport

4.172. The DRC has a dense network of some 15,000 km of classified and categorized waterways including rivers and lakes, so that transport by boat is possible across much of the territory. Most river transport is provided by small-scale informal private operators. The Transport and Ports Company (SCTP, formerly ONATRA) is the main operator. According to the authorities, the volume of traffic is about 2 million tonnes of cargo per year for river transport alone. At a cost of US$0.05 per tonne/km, river transportation is a highly competitive mode. However, it has the drawback of being slow and is therefore limited to non-perishable goods. River navigability is also limited by problems of buoyage and dredging.

4.173. Matadi is the country's main seaport, with an estimated annual capacity of about 2.5 million tonnes. The DRC also uses the ports of neighbouring countries under multimodal transport arrangements, which are affected by problems of intermediate reloading.

4.174. Goods and passenger river transportation is relatively developed in the DRC, both in the direction of Brazzaville and towards the interior. The Congo River crosses the country, starting from the south and flowing through several provinces, with vary large navigable tributaries.

4.175. Cabotage is authorized for sea, river or lake transport, but carriers must obtain approval in order to begin operations. It is reserved for Congolese flag and/or regional partners of the DRC, in the latter case subject to reciprocity. With regard to the merchant fleet, the DRC does not have any ships of more than 1,000 deadweight tonnes (DWT) registered under its flag. The last fleet under the Congolese flag was sold in 1994, since when the national maritime company, Lignes Maritimes Congolaises SA (LMC SA), operates through chartering.

4.176. Overall the legal framework for maritime transport is based on the conventions of the organizations to which the country belongs, such as the IMO, United Nations, MOWCA, UNCTAD and CICOS. Maritime transport is liberalized in the DRC, but subject to conditions under the terms of the Congolese Maritime Code, in particular Circular No. 0001CAB/MIN/TVC/2015 of 9 May 2015 on the conditions for participation in Congolese maritime traffic. The DRC is a signatory of the United Nations Convention on the Code of Conduct for Liner Conferences (1974) and a member of the United Nations Convention on the Carriage of Goods by Sea (1978). The maritime agreement between the DRC and Belgium was subsequently extended to the EU.

4.177. The Ministry of Transport and Communications is responsible for the regulation of the subsector, through its Maritime and Waterways Directorate, which is also responsible for issuing approval certificates. The River Navigation Board (RVF) and the Congolese Seaways Company (CVM S.A.) are the two national agencies responsible respectively for the supervision of dredging, maintenance of navigable rivers and the buoyage of the whole of the country's waterways network.

4.178. Cargo management is entrusted to the Multimodal Freight Management Office (OGEFREM), which became an administrative and technical public institution under the reform of the State-owned enterprises (Section 3). Its missions were also expanded and now cover Congolese cargo from end to end (multimodal transport). OGEFREM also deals with matters relating to transit and regional integration in the transport field, and has established the electronic import information form (FERI) and the destination certificate (AD) in order to facilitate cargo tracking.

4.179. OGEFREM plays a role in export and import activities, *inter alia*, by: (i) charging levies on maritime freight[46]; (ii) requiring importers to obtain (against payment) the FERI introduced in 2005; (iii) requiring ship operators to sign an accession contract in order to have the right to call at Matadi; and (iv) by means of agency contracts with forwarders (Section 3.2).

4.180. The following import levies are assessed: 1.8% of the f.o.b. value of the freight invoiced by the ship operator and charges for the FERI (Section 3). Altogether the charges made by OGEFREM may amount to 1.88% of the c.i.f. value of imports. The utility of OGEFREM's activities is strongly contested by shipping agents, freight forwarders and even shippers, who view these levies as tantamount to taxes (with no service in return). All these charges come in addition to ordinary import duties and taxes (Section 3).

4.181. In the context of its strategy to revitalize the subsector, the Government has taken various measures, including the banning in June 2014 of 38 taxes and fees, the levying of which was considered illegal for river and lake transport.[47]

4.182. During the period under review, the DRC has also undertaken the rehabilitation of navigation infrastructure and equipment. The Government has negotiated and obtained financing from its development partners for certain projects which have improved service quality. These include in particular the Multimodal Transport Project, the River and Lake Navigability Improvement Project, and the Kalemie Port Desilting Project. Goods and passenger traffic has been restored on the Kinshasa-Kisangani line (Congo River) in September 2015 thanks to the rehabilitation of the vessel ITB KOKOLO, thereby reducing travel time from 28 to 17 days.

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[46] Democratic Republic of the Congo (2009), Decree of 3 December 2009 establishing the statutes of the Multimodal Freight Management Office (OGEFREM).

[47] Democratic Republic of the Congo (2014), Interministerial Order No. 003/VPM/MIN.BUDGET/2014 of 19 June 2014.

4.183. Ordinary company tax law applies to maritime transport companies, and there is no special regime based on tonnage or regime for the subsidization of the merchant navy (with respect to shipbuilding and/or operation).[48] The DRC applies the principle of national treatment for port duties and more generally for port service charges. It does not apply any differential treatment as between foreign partners on the basis of their flag.

4.184. In addition to the international provisions, the DRC uses the Maritime Navigation Code for registration purposes. The shipowner must submit an application for a shipbuilding authorization together with the plans of the ship to be built. The plans must be approved by the shipyard office for the building to take place. The shipowner must then apply for the ownership deed, attaching the shipbuilding authorization and plans. The Maritime and Waterways Directorate then sends a team of experts for tonnage measurement and inspection of the newly built ship in order to determine its capacities before it can be registered.

4.185. In order to register a foreign-flag vessel in the DRC, shipowners must apply for a provisional clearance certificate accompanied by a "certificate of deletion" of the ship to the Ministry of Transport and Communications. A team of experts of the Maritime and Waterways Directorate has to carry out an *in situ* inspection of the ship's seaworthiness. When the vessel has been delivered, the Directorate will issue the definitive clearance certificate followed by the issuance of registration.

4.186. Access to professions such as carrier, customs broker, freight forwarder and shipping agent has been liberalized.

4.187. Apart from the UNCTAD Code of Conduct for Liner Conferences and the bilateral agreement with Belgium (expanded to the European Union), the DRC has signed other agreements containing cargo-sharing clauses on a 40-40-20 basis. The DRC has also signed maritime agreements providing for privileged treatment in terms of access to ports, port charges and handling, and shore establishments with a number of countries (Box 4.2).

4.188. The DRC ratified the ISPS Code on port security in 2004. The ports of Boma and Matadi are eligible under the United States Container Security Initiative (CSI) programme and prices/charges are set freely.

[48] Democratic Republic of the Congo (2013). Law of 27 February 2013 on the nomenclature and procedures for levying duties, taxes and fees in the DRC.

Box 4.2 Agreements on transport services signed by the DRC

Maritime Agreements signed by the DRC

- Agreement between the DRC and the Russian Federation signed at Moscow on 10 December 1976;
- Agreement between the DRC and Portugal signed at Kinshasa on 5 February 1983;
- Agreement between the DRC and the United States signed at Kinshasa on 24 February 1988;
- Agreement between the DRC and South Africa signed at Kinshasa on 16 March 2006;
- Agreement DRC – Angola, Luanda, 18 October 1978;
- Agreement DRC – Belgium, Kinshasa, 5 March 1981;
- Agreement DRC – Brazil, before the establishment of OGEFREM;
- Agreement DRC – Bulgaria, Sofia, 18 September 1980;
- Agreement DRC – China, Kinshasa, 10 April 1974;
- Agreement DRC – Côte d'Ivoire, Kinshasa, 27 February 1984;
- Agreement DRC – South Korea, Seoul, 15 September 1985;
- Agreement DRC – Egypt, Cairo, March 1989;
- Agreement DRC – Gabon, Libreville, 5 June 1985;
- Agreement DRC – Guinea Conakry, Kinshasa, 30 September 1980;
- Agreement DRC – Equatorial Guinea, Malabo, 8 November 1986;
- Agreement DRC – Italy, Rome, 9 May 1973;
- Agreement DRC – Morocco, Rabat, March 1985;
- Agreement DRC – Mozambique, Maputo, 17 July 1980;
- Agreement DRC – Portugal, Kinshasa, 5 February 1988;
- Agreement DRC – Togo, Kinshasa, 1989.

Agreements on road transport signed by the DRC

- Agreement between the DRC, Zambia and Namibia establishing the Walvis Bay–Ndola–Lubumbashi Corridor signed on 5 March 2010 at Livingstone;
- Agreement establishing the Northern Corridor Transit and Transport Coordination Authority (ACTT-CN);
- Agreement establishing the Central Corridor Transit Transport Facilitation Agency (AFTT)

Source: Information provided by the authorities.

4.4.4.2 Air transport

4.189. For a country the size of the DRC, air transport represents a major issue in terms of both challenges and opportunities. Air transport allows rapid travel between the main towns of all the provinces as well as the many centres on Congolese territory that have airport infrastructure (there are 237 airports, with 26 paved runways). However, air transport costs are high and thus limit the options to very high-value goods, which is rarely the case of unprocessed agricultural products or other high-tonnage goods.

4.190. The 53 largest airports and aerodromes (26 with paved runways) are managed by the Air Navigation Board (RVA), a State-owned enterprise. Four of these are the international airports of Kinshasa, Lubumbashi, Kisangani and Goma. There are also other airfields belonging to private companies (agricultural and mining companies), religious faiths (Catholic, Protestant and Kimbanguist) and the Congolese Institute for Nature Conservation (ICCN). The RVA is also responsible for air navigation and security services. Besides the RVA, the institutional framework comprises: the Civil Aviation Authority (AAC/DRC) established by Decree No. 11/29 of 10 June 2011, the Permanent Bureau for Aviation Accident and Incident Investigation (BPEA) established by Decree No. 12/035 of 2 October 2012, and the Meteorology and Satellite Remote Sensing Agency (METTELSAT).

4.191. Civil aviation is governed by Law No. 10/014 of 31 December 2010 on civil aviation. Under this law, aerodromes may be created by the State or by the private sector subject to authorization and under the conditions laid down by the State. The law provides that domestic transport must be carried out by companies incorporated under Congolese law; cabotage transport is prohibited, unless authorized by the competent authority. The DRC has not concluded any open skies agreements. The legal framework has also been supplemented by a number of regulatory texts laying down in particular the conditions for access to the profession of supplier of ground handling services in airports and aerodromes open to public air traffic, and for the exploitation of air traffic rights.

4.192. Some service activities at N'djili/Kinshasa international airport, the country's main airport, are in the process of being granted under concession to the private sector, in the form of a national and foreign company incorporated under Congolese law, for cleaning, parking, catering and duty-free shop services.

4.193. The DRC has no regulations or legislation prohibiting or limiting the capacity of foreign airline companies to sell their tickets by the channels of their choice (travel agencies, airport counters or internet).

4.194. The DRC does not have any aircraft maintenance and repair workshops (MROs) certified by the United States FAA or the European EASA. Foreign airline companies are authorized to engage in self-handling providing the handling equipment is approved by the AAC. However, mutual handling is not allowed. Third-party ground handlers meeting the technical and legal conditions governing operations and establishment are free to set up in the DRC.

4.195. Until October 2015 the DRC did not have a functioning State-run air transport operator. The country is served by several private operators using very old aircraft, most of which are substandard and ply domestic routes only. On 9 October 2015 the Government launched a new State-owned air company (CONGO AIRWAYS) with the aim of improving coverage and service quality. At end-February 2016, its fleet consisted of two aircraft exclusively operating domestic routes.

4.196. Ministerial Order No. 073/CAB/MIN/TVC/2014 of 17 November 2014 regulates the exploitation of air traffic rights in the DRC. The operation of international flights to the DRC by foreign companies is subject to bilateral and multilateral agreements. Skies are open up to the fifth freedom of the air; in practice the fifth freedom is not automatic but subject to negotiations, in accordance with the above-mentioned Order.

4.197. The DRC is served by the following air companies operating international links (country ownership is indicated in brackets): Asky Airlines (Togo), Air France (France), Air Ivoire (Côte d'Ivoire), Solotanta Aviation (Gabon), Westair Benin (Benin), Ethiopian Airlines (Ethiopia), Kenya Airways (Kenya), Royal Air Maroc (Morocco), Brussels Airlines (Belgium), South African Airways (South Africa), Turkish Airlines (Turkey), Camair-Co (Cameroon), TAAG (Angola), Egyptair (Egypt), CARGOLUX (Luxembourg), Emirates Airlines (United Arab Emirates) and Proflight (Zambia).

4.198. The conditions of establishment of air companies in the DRC are governed by Decree No. 12/030 of 2 October 2012.[49] Apart from establishment conditions, the Decree also lays down the conditions for the granting of air service operation licences and the air carrier certificate. There are no restrictions on the nationality of investors, in accordance with the OHADA Uniform Act. However, the headquarters must be established in the DRC. This regulation was notified to the International Civil Aviation Organization (ICAO). As regards the authorization of charter flights, the DRC's policy operates on a case-by-case basis; the country does not apply an "open window" policy.

4.199. Airport charges[50] are governed by Orders Nos. 410/CAB/SG/TC/950/96 of 4 December 1996 and 409/CAB/MIN/TVC/082/2009 of 3 December 2009, as well as by Decision No. RVA/DG/DC/730/0768/2012 of 26 March 2012 setting the rates for aviation and non-aviation charges applicable to domestic and international traffic in the DRC and Departmental Order No. 85/01/001 of 2 January 1985 establishing the procedures for the invoicing and collection of fees and other amounts due to the RVA. In addition, a fee of US$50 (payable in cash) to be paid into the Infrastructure Development Fund is levied on every embarking passenger and per kilo of cargo on embarkation and disembarkation on international flights, and on embarkation only on domestic flights. There are also several other fees and charges, including: (i) a landing fee that increases with the weight of the aircraft; (ii) an overflight fee, that increases with the weight of the aircraft; (iii) a parking fee of US$0.1 multiplied by the number of hours of parking and the weight;

[49] Democratic Republic of the Congo (2012). Decree No. 12/030 of 2 October 2012 establishing the conditions for the granting of operating licences for air services and air carrier certificates.

[50] These are mainly landing fees; airfield lighting fees; parking fees; fees for the use of facilities equipped to receive passengers and cargo; and overflight fees.

(iv) a passenger fee of US$25 levied per person; and (v) a US$200 lighting fee for each landing and take-off.

4.200. In order to improve airport security and infrastructure, the Government has launched a wide-ranging programme of renovation with the establishment of the Infrastructure Development Fund and the support of the African Development Bank (ADB), the German agency for international cooperation (GIZ) and other partners, as well as its own funds. Achievements over the period 2010-2015 include: the construction and operation of a new international terminal at N'djili (Kinshasa) international airport; the building of new modern control towers; the rehabilitation of runways; the purchase of security equipment in the international airports of Kinshasa and Lubumbashi; the partial or total rehabilitation of the Kolwezi, Lodja, Gemena, Mbandaka, Isiro and Kananga airport terminals; the rehabilitation of the runways of Goma, Kolwezi and Moanda airports; and the training abroad of air traffic controllers (ATCs), maintenance technicians (RTCs) and fire brigade personnel.

4.201. Together these efforts have resulted in the improvement of air safety by increasing the radio communication coverage rate of DRC airspace from 20% in 2013 to 75% in 2015.

4.202. Moreover, since April 2013 the DRC has been undertaking the process of certification of air transport services for the purpose of cleaning up the sector and improving security. It accordingly underwent a second ICAO audit from 15 to 23 January 2013. Following this audit, the country established a corrective action plan to address the unresolved Protocol Questions (PQ) in accordance with the recommendations made.

4.203. The DRC is a member of the International Civil Aviation Organization (ICAO) and the African Civil Aviation Commission (AFCAC). It is also a signatory of the COMESA Multilateral Air Transport Agreement of 1999.[51] The DRC has also ratified the Chicago Convention and thus has undertaken to guarantee civil aviation safety by complying with the ICAO Standards and Recommended Practices (SARPs).

4.4.4.3 Rail transport

4.204. The DRC's railway network is relatively undeveloped (5,033 km of three different lines). It is in a poor state and can serve only some localities, essentially the Kinshasa-Matadi artery and certain areas of the Kasaïs, Katanga and Maniema. It is divided into three sections: Eastern (3,641 km), Western (366 km + 287 km) and Central (187 km). Apart from these three lines, there are subsidiary lines operated by producing companies to transport their mining, agricultural and petroleum products. Cabotage by rail is inoperable *de facto* in the DRC because of the difference in the track gauges of the lines as well as the fragmentation of the railway network.

4.205. Rail transport including suburban services is operated by three State-owned companies that run three distinct networks: the Haut Uelé railway company (Central network), the Congolese National Railway Company (SNCC), for the Eastern network, and the Transport and Ports Company (SCTP) for the Western network.

4.206. The rail sector operates under a State monopoly and the legal framework has not changed since the Ordinance-Law of February 1954, which is the main legislation governing rail transport activities.

4.207. With the exception of a few initiatives, the Government does not have a policy to develop this subsector. During the period 2010-2015, the Government's strategy, with the support of donors, has been to focus investment on three areas, namely the re-opening of lines, restoring maintenance and management, and social measures to accompany reforms.

4.208. In September 2015, the SNCC acquired a fleet of 38 locomotives, 12 of which are in operation. This rolling stock is intended for domestic goods and passenger traffic, with the possibility of running on other interconnected border networks. As a result, travel time on the Lubumbashi-Kindu, Lubumbashi-Kalemie and Lubumbashi-Mwene Ditu segments has been significantly shortened.

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[51] Viewed at: http://www.comesa.int.

4.209. In July 2015, after ten years of interruption the SCTP resumed passenger rail services between Kinshasa and Matadi, after acquiring a first batch of rolling stock. The cost of train travel from Kinshasa to Matadi and vice versa has been set at US$87 for luxury class, US$60 for first class, and US$16 for second class.

4.210. In addition, the agreement signed between the DRC and Angola has led to the re-opening of the Benguela railway.

4.4.4.4 Road transport

4.211. The DRC's road network consists of about 152,400 km of national roads, of which only 5% are paved, 86,871 km of agricultural service roads (for which the Directorate of Farm Roads (DVDA) is responsible), 58,129 km of general interest roads (RIG), for which the Highways Office (OR) is responsible, and 7,400 km of urban roads under the responsibility of the Office of Roads and Drainage (OVD). It is organized into two main types of network, namely the national road network and a provincial road network that is subdivided into a network of priority and secondary roads. The two main highways in the national road network are the East-West highway linking the port of Matadi and Lubumbashi via Kinshasa, and the North-South highway linking Lubumbashi to Goma and Mbuyi-Mayi and continuing to Kisangani. Road transportation is provided by a small number of fiercely competing informal enterprises that often overload their trucks. Despite the competition, road transport costs are generally very high. Although road transport is the mode most used to distribute agricultural produce and domestic cargo, inland road cargo services are still undeveloped.

4.212. After the successive failures of the Congolese Transport Office (OTC), the Zaïre Transport Company (SOTRAZ) and the Congolese Urban Transport Company (STUC), a programme to modernize urban transport was undertaken, leading to the establishment under Decree No. 13/001 of 10 January 2013 of a public transport company, TRANSCO, which has been operational since February 2013. The Government also supported the creation on 20 October 2014 of an association of private transport professionals (Esprit de Vie), operating as a cooperative. The Government entirely financed the purchase of vehicles which it placed at the disposal of the cooperative under a leasing arrangement.

4.213. Traffic is mainly concentrated around the cities and traffic volumes are relatively low compared to the average of neighbouring countries. Some parts of the country are still inaccessible by road. The quality of the transport corridors is judged mediocre by the specialized indicators and in particular the World Bank Logistics Performance Index (LPI) (Chart 4.2). The result is a bottleneck that hinders the development of the DRC's trade with its neighbours.

4.214. The maintenance of general interest roads, bridges and ferries has been entrusted to the OR, that of urban roads to the OVD, and that of agricultural service roads (farm roads) to the DVDA. There is a National Road Maintenance Fund (FONER), a public entity under the responsibility of the Ministry in charge of infrastructure and works. The FONER is financed by the receipts from fuel taxes, driving licences, road tolls and vehicle import taxes. Most of the Fund (about 95%) is allocated to the national budget every year for the current maintenance of the road network. FONER's resources have been growing over the last five years, rising from US$25 million in 2009 to US$102 million in 2013, for a cumulative total of about US$375 million between 2009 and end-March 2014. According to the authorities, FONER's annual receipts are distributed on the following basis: 5% to FONER for its operation (wages and other charges); 40% to the provinces for road maintenance and 55% to the central government to finance roads under the responsibility of the OR and OVD. A road toll has been introduced in the framework of the road rehabilitation programme. There are persistent problems regarding the implementation of regulations to limit vehicle weights on certain routes.[52]

4.215. Road transport (of goods and passengers) is in principle reserved for companies incorporated under Congolese law; in practice, informal sector operators provide some of the taxi and taxi-bus services. Goods transport costs are set at the discretion of the operators. In contrast, urban passenger transport costs are negotiated between the Government and the transport unions and are then submitted for approval to the Ministry responsible for the economy. The fleet of

[52] For example, in Nord-Kivu, the charges are as follows: US$25 dollars for trucks, US$12 for vans and US$6 for cars.

vehicles reserved for goods and passenger transport is limited and this is spawning serious urban transport problems. Competition by small informal enterprises that regularly overload their vehicles is not making for private sector development in the transport sector with a view to any substantial lowering of transport costs, which for the time being continue to be very high – as much as US$0.15 per tonne/km. According to the authorities, cabotage is permitted and operational.

4.216. Road transport is governed by a set of laws and regulations that comprise the regulatory framework.[53] The Ministry of Transport and Communications issues the orders granting approval of road transporters, subject to conditions of professional competence and financial solvency. Road transporters are supposed to pay various fees (passenger transport authorization, goods transport authorization, technical inspection certificate) that concern them. Foreign road transport operators must show their documents at the Congolese border (international transport authorization, international transport waybill) and pay the foreign vehicle toll at the border post. The itinerary is indicated on the foreign road transporters' waybill.

4.4.5 Tourism

4.217. The DRC has a great, diversified tourist potential owing to its biodiversity, abundant water resources[54], safari parks[55], imposing mountains, varied climate and ethnic and cultural diversity. The DRC ranks 10th among the world's mega-biodiversity countries and boasts 480 species of mammals, 565 species of birds, 1,000 species of fish, 350 species of reptiles, 220 species of amphibians and over 10,000 angiosperms. In 2014 the Government identified 1,142 sites comprising the country's biodiversity of exceptional parks and reserves, mountains, climatic variety, ethnic diversity and cultural importance.

4.218. The DRC's forest covers about 70% of the national territory, with protected areas, wildlife and hunting reservations that contain diverse ecosystems. The country should position itself as a top destination for the discovery of tropical forests, savannah and its many iconic species such as the mountain and lowland gorillas, and the okapi, a rare species found only in the DRC. In addition to eco-tourism, which has potential thanks to the diversity of the DRC's ecosystems and cultural heritage, several other forms of tourism could be developed, including cultural tourism – there are over 400 ethnic groups with diverse customs and historical heritage; agro-tourism; "health and medicinal plant-related" tourism; safari photo and hunting tourism, given the country's wealth of animal resources; business tourism and conferences; and sporting tourism.

4.219. Despite this huge potential, tourism has suffered greatly from the armed conflicts in the eastern part of the country, which is considered the jewel in the crown of Congolese tourism. The conflicts have destroyed the infrastructure, which explains why tourism is struggling to take off. The tourist industry, chiefly the hotel and restaurant subsector, contributes very little to the country's GDP (Section 1).

4.220. Hotel capacity is very limited. It is concentrated in Kinshasa, which alone has 307 hotels classed from one to five stars, with a total of about 5,536 rooms and 5,643 beds. Facilities for hosting international conferences and congresses are likewise very limited. Moreover, there are very few international hotel chains that could establish a broad network of cooperation with travel agencies and other related services. The country does not have an efficient statistical system for tourism. The underfinancing of the sector complicates marketing and advertising operations to attract foreign tourists. Lastly, the sector lacks qualified personnel, which acts as a constraint on investment.

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[53] Ordinance No. 89/139 of 10 June 1989 amending and supplementing Ordinance No. 79-297 of 27 December 1979 on the basis, rates and modalities for the collection of administrative and legal taxes and fees to be levied at the initiative of the Department of Transport and Communication; Law No. 013/002 of 23 February 2013 establishing the nomenclature of central government duties, taxes and fees; and Interministerial Orders Nos. 065/CAB/MIN/TVC and 310/CAB/MIN/FINANCES of 26 November 2011 establishing the rates of the duties, taxes and fees to be levied at the initiative of the Ministry of Transport and Communications, ordinance of the new Highway Code.

[54] The country has many lakes rich in fish, including Lake Tanganyika, which has the world's highest fish density.

[55] Four of the DRC's national parks are now UNESCO world heritage sites.

4.221. Tourist infrastructure in the DRC as a whole consists essentially of hotels owned by private investors. The State has retained only a partnership in two Kinshasa hotels and one hotel in Lubumbashi, the country's second city. The total number of hotels was 3,742 in 2015 with a total capacity of 48,080 beds. The occupation rate was about 60% for beds and 70% for rooms in 2015. The number of non-resident (tourist) arrivals has risen steadily in recent years, from 81,117 in 2010 to 333,563 in 2014, reflecting a revitalization of this sector after several years of stagnation. There are some medium-sized private hotels in Kinshasa and elsewhere in the country.

4.222. Tourism is placed under the authority of the Ministry of Tourism, which is responsible for formulating and implementing the country's tourism policy. It is supported by the National Tourism Office (ONT), a public legal entity entrusted with technical and promotional activities and responsible for promoting national and international tourism by all suitable means, sometimes in competition with the private sector. The ONT does not have sufficient material, financial and human resources, or any decentralized services, and is not capable of responding to the sector's development needs. According to the authorities, a new operational framework must be defined and established.

4.223. Hotels are classified by the Ministry of Tourism, in principle every two years; other tourist establishments are not subject to classification as yet. However, according to the authorities, in 2015 93% of establishments representing 80% of room capacity were not classified. No classification has taken place for several years. Operators set prices for rooms and services at their discretion.

4.224. The tourist industry is undeveloped in the DRC, whereas it is flourishing in neighbouring countries, even those that have only recently entered the tourism market. Tourism suffers from a number of problems that greatly handicap its development in the DRC. The number of visitors is very small and appears to consist basically of business travellers and conference participants. There are many tourist attractions but most of these have not been developed. Apart from the geopolitical context of recent years, which has not been conducive to the long-awaited growth of tourism activities, it should be noted that the very difficult conditions and very high cost of obtaining an entry visa to the DRC are real constraints on the development of tourism. The DRC entry visa is one of the most expensive in the world. Tourism is still viewed as "experimental" insofar as it is very undeveloped and regulated, and government measures are sometimes contradictory, as illustrated by the highly restrictive and costly regulations governing entry visas. Nevertheless, according to the authorities, efforts are now being made to make the DRC a major tourist destination.

4.225. The Congolese authorities have launched some projects for the development of industrial activities and they are encouraging the emergence and development of the tourism industry. In July 2013 the DRC accordingly updated its integrated national master plan for the development of tourism 2015-2030, overhauling a number of legal and regulatory texts for the sector in May 2014, and took the option of promoting eco-tourism, cultural and activity-based tourism, and educational tourism in partnership with the private sector. In addition, a security corps for national parks and assimilated natural reserves (CorPPN) was set up in June 2015 in order to beef up security in the country's protected areas. At regional level, on 14 July 2015 the DRC signed protocols for tourism development cooperation with South Africa and Zimbabwe.

4.226. Apart from the ONT, the private sector, consisting of travel agencies, hoteliers, transporters and restaurateurs, is involved in tourism through the FEC and the Confederation of Small and Medium-sized Enterprises (COPEMECO). The DRC has been a member of the Regional Tourism Organization of Southern Africa (RETOSA) since 1998, and takes advantage of the annual meetings of that network to raise its commercial profile in tourism. Besides, the Congolese Institute for Nature Conservation (ICCN) works in partnership with the GIZ to facilitate tourism in protected areas.[56]

4.227. A Tourism Promotion Fund has been created to support the sector and tourist operators, financed by a levy of 5% on hotel bills, US$30 on every plane ticket and US$30 on every boat ticket on international lines. For example, 60% of receipts from activities in protected areas should go towards their operating, upkeep and maintenance costs, and of the remaining 40%, 30% would

[56] The ICCN manages the DRC's protected areas (9% of the national territory, comprising seven national parks and 63 wildlife and hunting reservations).

be allocated to local communities and 10% would contribute to the operation of ICCN headquarters (Section 3).

4.228. Under the Investment Code, general tax incentives may be provided to attract investment (both national and foreign). According to the authorities, measures specifically targeting tourism are under study. Domestic or foreign companies wishing to operate tourism-related activities must obtain from the Ministry of Tourism an authorization or a non-transferable operating licence; such companies are also subject to a fee that is set in accordance with their category.

4.229. Tourist guide activities are regulated in the protected zones. To be a tourist operator, the following steps are required in principle: a letter to the relevant tourism administration, and submission of a full dossier meeting the requirements of the sector's regulatory texts (hotels, restaurants, travel agencies, tourist associations, tourist sites); consideration of the dossier by the competent technical service, on-site expert mission and drafting of the collection notes; payment of duties and fees to the bank; delivery of documents by the relevant authority (central government or decentralized territorial entities (ETD)) on presentation of the proof of payment certified by the collection service (DGRAD or ETD service); and start-up of the activity. However, sometimes economic operators launch their projects and regularize their situation afterwards.

4.230. The tourism sector is completely open to domestic and foreign investors, who are all subject to the same sectoral legislation. The duties and taxes set by Interministerial Orders Nos. 019/CAB/MIN/ECN-T/2013 and 993/CAB/MIN/FINANCES/2013 of 2 November 2013 establishing the rates of duties, taxes and fees to be collected at the initiative of the Ministry of the Environment, Nature Conservation and Tourism/Tourism Sector are still in force.

4.231. The DRC is a signatory to the Tourism Charter, the Tourist Code of 26 September 1985 and the Global Code of Ethics for Tourism of 1 October 1999, drawn up by the World Tourism Organization (UNWTO), of which it is a member.

4.232. Tourism in the DRC is subject to specific commitments under the General Agreement on Trade in Services (GATS).[57] These commitments concern in particular hotel and restaurant services, tour operator services, tourist guide services, and entertainment services.

[57] WTO document GATS/SC/103 of 30 August 1995.

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5 APPENDIX TABLES

Table A1. 1 Structure of exports, 2008-2014

(US$ million and %)

	2008	2009	2010	2011	2012	2013	2014
World (US$ million)	3,765	2,806	5,785	7,090	7,165	8,143	7,496
	(percentage share)						
Total primary products	84.7	90.6	88.9	88.1	91.4	89.3	93.2
Agriculture	7.4	6.4	3.8	3.3	2.9	2.5	3.0
Food	1.7	2.2	1.3	0.7	0.6	0.5	0.7
0711 - Coffee, not roasted, whether or not decaffeinated; coffee husks and skins	0.5	0.6	0.3	0.2	0.2	0.1	0.2
Agricultural raw materials	5.6	4.2	2.5	2.5	2.3	2.0	2.3
2475 - Wood of non-coniferous species, in the rough (whether or not stripped of bark or sapwood) or roughly squared	2.8	1.7	1.3	1.6	1.4	1.1	1.3
2484 - Wood of non-coniferous species, sawn or chipped lengthwise	2.0	1.5	0.7	0.7	0.5	0.6	0.6
Mining	77.4	84.2	85.1	84.9	88.5	86.7	90.2
Ores and other minerals	43.0	35.6	29.4	26.1	21.5	25.0	27.2
2831 - Copper ores and concentrates	15.9	13.7	11.3	12.5	12.2	17.3	17.1
2879 - Ores and concentrates of other non-ferrous base metals	24.9	20.2	16.8	12.6	7.5	6.1	7.9
2876 - Tin ores and concentrates	0.3	0.0	0.4	0.1	0.2	0.4	0.9
2878 - Ores and concentrates of molybdenum, niobium, tantalum, titanium, vanadium and zirconium	0.1	0.1	0.1	0.1	0.3	0.3	0.4
2771 - Industrial diamonds, sorted, whether or not worked	1.4	0.4	0.3	0.2	0.5	0.3	0.4
Non-ferrous metals	28.5	31.7	43.4	41.6	56.0	49.3	49.3
6821 - Copper, refined and unrefined	13.7	21.4	33.4	34.7	46.7	40.9	39.3
6898 - Intermediate products of cobalt metallurgy	14.8	10.3	9.9	6.8	7.9	7.7	10.0
Fuels	5.9	16.9	12.4	17.2	11.0	12.5	13.6
3330 - Petroleum oils and oils obtained from bituminous minerals, crude	4.4	16.1	9.5	16.0	10.1	12.3	13.1
Manufactures	13.6	8.0	9.5	10.2	7.5	9.7	4.7
Iron and steel	0.2	0.1	0.1	0.0	0.1	0.1	0.0
Chemicals	0.3	1.0	3.5	3.0	2.0	3.0	0.9
Other semi-manufactures	12.2	6.0	4.9	5.5	4.7	3.8	3.2
6672 - Diamonds (other than sorted industrial diamonds), whether or not worked	11.9	5.6	4.6	5.3	4.6	3.6	3.0
Machinery and transport equipment	0.7	0.6	0.7	1.5	0.6	2.6	0.3
Textiles	0.0	0.1	0.0	0.0	0.0	0.0	0.0
Articles of apparel and clothing accessories	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Other consumer goods	0.2	0.2	0.2	0.1	0.1	0.2	0.3
Other	1.6	1.4	1.6	1.6	1.1	1.1	2.1

Note: The total amount of exports equals the total amount of imports received from the Democratic Republic of the Congo by partner countries.

Source: WTO Secretariat calculations, based on data obtained from Comtrade, mirror statistics, United Nations Statistics Division (UNSD) (SITC, Rev.3).

Table A1. 2 Structure of imports, 2008-2014

(US$ million and %)

	2008	2009	2010	2011	2012	2013	2014
World (US$ million)	3,909	3,205	4,375	5,147	6,127	7,067	6,702
	(percentage share)						
Total primary products	36.9	34.0	38.9	28.1	28.3	27.7	29.0
Agriculture	22.1	25.2	24.1	21.7	19.8	20.8	21.4
Food	20.6	23.1	22.0	20.1	18.3	19.5	20.0
1223 - Other manufactured tobacco (including smoking and chewing tobacco, snuff)	0.0	0.1	0.0	0.0	0.1	0.3	1.8
0123 - Meat and edible offal, fresh, chilled or frozen	1.5	2.1	1.7	1.8	1.7	1.5	1.7
0342 - Fish, frozen (excluding fillets and minced fish)	0.5	1.1	1.1	1.6	1.5	1.9	1.4
0412 - Other wheat (including spelt) and meslin, unmilled	2.1	1.7	1.7	1.4	1.1	1.1	1.2
0461 - Flour of wheat or of meslin	1.7	1.3	1.6	1.7	1.8	1.3	1.1
0989 - Food preparations, n.e.s.	1.2	1.0	1.1	1.4	1.0	1.1	0.9
Agricultural raw materials	1.6	2.1	2.1	1.6	1.5	1.3	1.4
2690 - Worn clothing and other worn textile articles; rags	1.0	1.4	1.0	1.1	1.0	1.0	1.0
Mining	14.7	8.8	14.7	6.4	8.5	6.9	7.6
Ores and other minerals	4.1	0.8	2.6	0.7	0.9	0.8	1.0
Non-ferrous metals	0.4	0.5	0.7	0.9	0.6	0.3	0.3
Fuels	10.2	7.5	11.5	4.8	7.0	5.8	6.3
Manufactures	61.9	64.4	59.1	71.3	70.4	71.1	70.2
Iron and steel	4.7	3.7	3.3	3.6	3.8	4.2	3.6
Chemicals	9.5	13.3	12.0	12.6	12.9	15.1	15.4
5223 - Inorganic acids and inorganic oxygen compounds	0.6	0.7	0.5	0.8	1.2	3.6	3.3
5429 - Medicaments, n.e.s.	1.3	3.6	2.5	2.2	2.2	2.5	2.0
5416 - Glycosides; glands or other organs and their extracts	0.2	0.2	0.2	1.0	0.4	0.7	1.0
Other semi-manufactures	9.8	10.2	10.6	10.6	13.6	12.3	10.6
6612 - Portland cement, aluminous cement, slag cement, supersulphate cement and similar hydraulic cements, whether or not coloured	1.6	2.1	1.7	1.7	1.5	3.3	1.8
6911 - Structures and parts of structures, of iron or steel	2.4	1.3	1.7	1.7	2.5	1.5	1.5
Machinery and transport equipment	29.1	26.1	23.6	34.8	31.3	30.8	29.1
Power-generating machinery	1.2	1.5	1.1	1.2	1.6	2.0	2.0
Other non-electrical machinery	12.3	10.0	9.8	12.3	12.9	12.8	11.6
7239 - Parts, n.e.s., of the machinery of group 723 and of subgroup 744.3	1.4	1.8	1.7	1.2	1.4	1.4	1.8
7283 - Machinery (other than machine tools) for sorting	1.5	0.9	0.9	0.9	1.6	1.5	1.3
Agricultural machinery and tractors	0.2	0.2	0.3	0.3	0.4	0.2	0.3
Office machines and telecommunications equipment	3.9	3.3	2.5	4.0	3.3	2.8	3.0
Other electrical machinery	3.6	4.0	3.2	9.1	5.1	4.3	4.9
7731 - Insulated wire, cable and other insulated electric conductors	1.1	0.7	0.6	1.0	0.9	0.9	0.9
Automotive products	6.6	5.1	4.7	5.7	6.4	6.7	4.9
7821 - Motor vehicles for the transport of goods	3.0	1.7	1.6	2.5	2.9	3.1	2.0
7812 - Motor vehicles for the transport of persons, n.e.s.	1.4	2.0	0.9	1.1	1.3	1.0	0.9
Other transport equipment	1.4	2.2	2.3	2.5	2.0	2.3	2.6
7851 - Motor cycles (including mopeds) and cycles fitted with an auxiliary motor	0.2	0.7	1.0	0.9	0.8	1.0	1.3
Textiles	1.9	2.4	2.4	2.4	2.3	2.1	2.5
6523 - Other woven fabrics, containing 85% or more by weight of cotton, weighing not more than 200 g/m2	0.6	0.6	1.1	0.9	1.2	1.0	1.2
Articles of apparel and clothing accessories	0.6	0.6	0.7	0.5	0.5	0.6	0.9
Other consumer goods	6.4	8.2	6.6	6.7	5.9	6.0	8.1
Other	1.3	1.5	2.0	0.6	1.3	1.1	0.8

Note: The total amount of imports equals the total amount of exports dispatched to the Democratic Republic of the Congo by partner countries.

Source: WTO Secretariat calculations, based on data from the United Nations Statistics Division (UNSD) Comtrade database (SITC, Rev.3), mirror statistics.

Table A1. 3 Destination of exports, 2008-2014

(US$ million and %)

	2008	2009	2010	2011	2012	2013	2014
World (US$ million)	3,765	2,806	5,785	7,090	7,165	8,143	7,498
	(percentage share)						
America	7.3	12.4	9.7	10.3	0.8	1.3	2.8
United States	7.2	12.1	9.4	8.8	0.6	1.0	2.1
Other America	0.1	0.3	0.3	1.5	0.3	0.3	0.7
Canada	0.0	0.0	0.0	0.0	0.0	0.0	0.3
Brazil	0.1	0.2	0.2	1.5	0.2	0.2	0.3
Europe	29.9	19.7	12.4	11.9	12.6	20.1	22.3
EU(28)	29.6	18.7	12.3	11.6	12.0	19.3	19.6
Italy	0.5	0.5	1.5	0.3	1.7	8.5	8.1
Belgium	13.5	8.4	5.1	5.2	5.1	4.0	4.2
Finland	8.7	3.6	2.3	1.3	2.4	1.9	3.2
Germany	0.4	0.8	0.4	0.2	0.6	1.7	1.5
Spain	0.2	0.1	0.0	1.4	0.2	1.9	1.4
Netherlands	1.1	0.6	0.9	1.8	0.4	0.2	0.7
EFTA	0.2	0.7	0.0	0.0	0.0	0.0	0.0
Other Europe	0.0	0.2	0.1	0.3	0.6	0.8	2.6
Turkey	0.0	0.2	0.1	0.3	0.6	0.8	2.6
Commonwealth of Independent States (CIS)	0.3	0.1	0.0	0.1	0.3	0.2	0.1
Africa	16.4	20.3	25.6	21.6	19.8	26.4	23.8
Zambia	14.2	17.3	21.9	18.8	17.7	22.7	19.5
Namibia	0.3	0.2	0.0	0.0	0.0	0.3	2.9
Egypt	0.0	0.0	0.0	0.2	1.0	0.4	0.4
South Africa	0.2	0.4	0.2	0.2	0.1	0.2	0.2
Congo	0.4	0.5	0.2	1.2	0.5	2.5	0.2
Middle East	0.1	0.7	5.6	8.9	12.7	13.9	6.0
United Arab Emirates	0.0	0.0	2.2	2.6	4.1	5.8	6.0
Asia	46.0	46.8	46.7	47.1	53.9	38.2	45.0
China	42.1	40.5	43.3	44.6	49.2	33.7	37.6
Japan	0.7	0.2	0.0	0.0	0.1	0.0	0.0
Other Asia	3.3	6.1	3.4	2.5	4.6	4.5	7.5
Korea, Republic of	0.1	0.8	1.7	2.1	3.3	2.7	3.5
India	3.0	4.9	0.2	0.1	0.3	0.3	1.6
Malaysia	0.0	0.0	0.0	0.0	0.0	0.4	1.3
Chinese Taipei	0.2	0.4	1.3	0.3	0.8	0.5	0.6
Viet Nam	0.0	0.0	0.0	0.0	0.0	0.4	0.4

Note: The total amount of exports equals the total amount of imports received from the Democratic Republic of the Congo by partner countries.

Source: WTO Secretariat calculations, based on data obtained from Comtrade, mirror statistics, United Nations Statistics Division (UNSD).

Table A1. 4 Origin of imports, 2008-2014

(US$ million and %)

	2008	2009	2010	2011	2012	2013	2014
World (US$ million)	3,909	3,205	4,375	5,147	6,127	7,067	6,702
	(percentage share)						
America	6.5	5.5	4.3	6.0	5.1	4.1	4.1
United States	3.3	2.5	2.1	3.2	3.3	2.4	2.7
Other America	3.2	3.0	2.2	2.7	1.8	1.7	1.4
Brazil	1.4	1.7	1.2	1.6	0.7	1.0	0.6
Europe	29.0	33.4	24.2	27.9	23.2	21.5	20.0
EU(28)	28.0	32.1	23.2	26.6	22.3	20.5	18.8
Belgium	10.1	10.2	8.2	8.6	7.3	6.9	6.3
France	4.7	7.2	5.2	4.7	4.5	4.2	3.1
Germany	3.2	3.4	2.8	3.1	2.8	3.0	2.6
Netherlands	3.3	3.9	2.9	3.0	2.3	2.2	2.3
Italy	2.3	3.8	1.4	2.1	1.3	1.3	1.3
United Kingdom	0.7	0.6	0.5	0.7	0.6	0.7	0.8
Spain	0.7	0.8	0.7	0.5	0.4	0.6	0.7
EFTA	0.8	0.9	0.6	0.6	0.5	0.5	0.6
Other Europe	0.2	0.5	0.3	0.7	0.4	0.6	0.6
Turkey	0.2	0.5	0.3	0.6	0.4	0.6	0.6
Commonwealth of Independent States (CIS)	0.3	0.2	1.9	0.1	0.4	0.4	0.4
Africa	55.2	46.9	54.9	44.8	50.5	52.9	45.6
South Africa	28.8	17.9	19.4	21.3	24.2	19.3	18.5
Zambia	7.3	9.4	7.6	11.3	11.8	16.8	11.9
Tanzania	3.7	2.7	3.6	2.5	3.1	3.4	4.2
Uganda	3.2	4.9	4.2	3.5	3.9	3.8	2.7
Rwanda	1.3	0.4	0.4	0.9	1.8	1.6	2.3
Côte d'Ivoire	3.2	2.1	1.7	1.4	0.9	1.6	1.9
Namibia	1.3	2.0	1.6	1.8	1.6	2.1	1.6
Cameroon	0.0	0.2	4.0	0.1	1.6	0.0	0.8
Middle East	0.1	0.1	1.5	1.3	1.8	1.7	2.4
United Arab Emirates	0.0	0.0	1.4	1.2	1.8	1.7	2.4
Asia	9.0	13.9	13.2	20.0	19.0	19.3	27.5
China	6.0	10.0	10.8	16.1	13.7	13.4	20.3
Japan	1.0	0.9	0.7	1.3	1.1	0.7	0.9
Other Asia	2.0	3.0	1.7	2.6	4.3	5.2	6.2
India	0.1	0.6	0.3	0.1	2.0	2.1	3.3
Hong Kong, China	0.3	0.3	0.2	0.5	0.3	0.5	0.7

Note: The total amount of imports equals the total amount of exports dispatched to the Democratic Republic of the Congo by partner countries.

Source: WTO Secretariat calculations, based on data obtained from Comtrade, mirror statistics, United Nations Statistics Division (UNSD).

Table A3. 1 Average applied MFN tariff rates, by HS Chapter, 2015

Code	Description	Number of lines	Average tariff (%)	Range (%)	Standard deviation
	Total	5,842	11.2	0 - 20	6.1
01	Live animals	38	11.8	5 - 20	6.2
02	Meat and edible meat offal	76	10.4	10 - 20	1.9
03	Fish and crustaceans, molluscs and other aquatic invertebrates	189	12.4	10 - 20	4.3
04	Dairy produce; birds' eggs; natural honey; edible products of animal origin, not elsewhere specified or included	32	10.2	5 - 20	5.7
05	Products of animal origin, not elsewhere specified or included	17	9.7	5 - 10	1.2
06	Live trees and other plants; bulbs, roots and the like; cut flowers and ornamental foliage	16	7.8	5 - 10	2.5
07	Edible vegetables and certain roots and tubers	78	9.2	5 - 10	1.8
08	Edible fruit and nuts; peel of citrus fruit or melons	85	10.0	10	0.0
09	Coffee, tea, maté and spices	39	12.6	5 - 20	4.8
10	Cereals	33	5.2	0 - 10	4.8
11	Products of the milling industry; malt; starches; inulin; wheat gluten	27	9.6	5 - 10	1.3
12	Oil seeds and oleaginous fruits; miscellaneous grains, seeds and fruit; industrial or medicinal plants; straw and fodder	49	8.5	5 - 10	2.3
13	Lac; gums, resins and other vegetable saps and extracts	10	5.0	5	0.0
14	Vegetable plaiting materials; vegetable products not elsewhere specified or included	5	5.0	5	0.0
15	Animal or vegetable fats and oils and their cleavage products; prepared edible fats; animal or vegetable waxes	50	12.0	5 - 20	6.1
16	Preparations of meat, of fish or of crustaceans, molluscs or other aquatic invertebrates	41	10.0	10	0.0
17	Sugars and sugar confectionery	18	11.9	5 - 20	5.3
18	Cocoa and cocoa preparations	11	14.1	5 - 20	5.6
19	Preparations of cereals, flour, starch or milk; pastrycooks' products	20	14.5	5 - 20	6.3
20	Preparations of vegetables, fruit, nuts or other parts of plants	52	19.6	10 - 20	1.9
21	Miscellaneous edible preparations	17	12.6	5 - 20	4.9
22	Beverages, spirits and vinegar	57	18.9	10 - 20	3.1
23	Residues and waste from the food industries; prepared animal fodder	25	7.6	5 - 10	2.5
24	Tobacco and manufactured tobacco substitutes	12	16.3	5 - 20	6.5
25	Salt; sulphur; earths and stone; plastering materials, lime and cement	71	7.2	5 - 20	3.8
26	Ores, slag and ash	37	5.0	5	0.0
27	Mineral fuels, mineral oils and products of their distillation; bituminous substances; mineral waxes	64	8.2	0 - 10	2.7
28	Inorganic chemicals; organic or inorganic compounds of precious metals, of rare-earth metals, of radioactive elements or of isotopes	166	5.0	5	0.0
29	Organic chemicals	336	5.0	5	0.0
30	Pharmaceutical products	40	11.3	5 - 20	3.8
31	Fertilisers	23	5.0	5	0.0
32	Tanning or dyeing extracts; tannins and their derivatives; dyes, pigments and other colouring matter; paints and varnishes; putty and other mastics; inks	49	9.0	5 - 10	2.0

Code	Description	Number of lines	Average tariff (%)	Range (%)	Standard deviation
33	Essential oils and resinoids; perfumery, cosmetic or toilet preparations	35	15.4	5 - 20	5.8
34	Soap, organic surface-active agents, washing preparations, lubricating preparations, artificial waxes, prepared waxes, polishing or scouring preparations, candles and similar articles, modelling pastes, "dental waxes" and dental preparations with a basis of plaster	40	18.5	10 - 20	3.6
35	Albuminoidal substances; modified starches; glues; enzymes	17	10.0	10	0.0
36	Explosives; pyrotechnic products; matches; pyrophoric alloys; certain combustible preparations	10	18.0	10 - 20	4.0
37	Photographic or cinematographic goods	33	17.0	10 - 20	4.6
38	Miscellaneous chemical products	81	10.1	5 - 20	4.3
39	Plastics and articles thereof	134	9.9	5 - 20	5.8
40	Rubber and articles thereof	106	12.5	5 - 20	5.9
41	Raw hides and skins (other than furskins) and leather	37	8.5	5 - 10	2.3
42	Articles of animal gut (other than silk-worm gut)	24	19.2	10 - 20	2.8
43	Furskins and artificial fur; manufactures thereof	13	12.3	10 - 20	4.2
44	Wood and articles of wood; wood charcoal	132	19.5	5 - 20	2.3
45	Cork and articles of cork	10	11.0	5 - 20	4.9
46	Manufactures of straw, of esparto or of other plaiting materials; basketware and wickerwork	11	20.0	20	0.0
47	Pulp of wood or of other fibrous cellulosic material; recovered (waste and scrap) paper or paperboard	21	9.0	5 - 10	2.0
48	Paper and paperboard; articles of paper pulp, of paper or of paperboard	112	12.1	5 - 20	5.1
49	Printed books, newspapers, pictures and other products of the printing industry; manuscripts, typescripts and plans	35	14.6	0 - 20	6.5
50	Silk	9	6.7	5 - 10	2.4
51	Wool, fine or coarse animal hair; horsehair yarn and woven fabric	38	6.4	5 - 10	2.3
52	Cotton	124	9.8	5 - 20	5.5
53	Other vegetable textile fibres; paper yarn and woven fabrics of paper yarn	23	6.5	5 - 10	2.3
54	Man-made filaments	137	12.4	5 - 20	6.2
55	Man-made staple fibres	131	11.0	5 - 20	6.2
56	Wadding, felt and nonwovens; special yarns; twine, cordage, ropes and cables and articles thereof	33	14.7	5 - 20	5.2
57	Carpets and other textile floor coverings	21	20.0	20	0.0
58	Special woven fabrics; tufted textile fabrics; lace; tapestries; trimmings; embroidery	43	15.6	10 - 20	5.0
59	Impregnated, coated, covered or laminated textile fabrics; textile articles of a kind suitable for industrial use	24	11.7	10 - 20	3.7
60	Knitted or crocheted fabrics	43	18.6	10 - 20	3.5
61	Articles of apparel and clothing accessories, knitted or crocheted	115	20.0	20	0.0
62	Articles of apparel and clothing accessories, not knitted or crocheted	112	19.9	10 - 20	0.9
63	Other made up textile articles; sets; worn clothing and worn textile articles; rags	68	17.2	5 - 20	5.0
64	Footwear, gaiters and the like; parts of such articles	27	18.9	10 - 20	3.1
65	Headgear and parts thereof	9	16.7	10 - 20	4.7

Code	Description	Number of lines	Average tariff (%)	Range (%)	Standard deviation
66	Umbrellas, sun umbrellas, walking-sticks, seat-sticks, whips, riding-crops and parts thereof	6	16.7	10 - 20	4.7
67	Prepared feathers and down and articles made of feathers or of down; artificial flowers; articles of human hair	9	16.1	5 - 20	5.7
68	Articles of stone, plaster, cement, asbestos, mica or similar materials	63	17.9	5 - 20	4.2
69	Ceramic products	29	16.0	5 - 20	5.6
70	Glass and glassware	67	14.1	5 - 20	5.5
71	Natural or cultured pearls, precious or semi-precious stones, precious metals, metals clad with precious metal and articles thereof; imitation jewellery; coin	65	17.4	0 - 20	5.0
72	Iron and steel	169	9.3	5 - 20	3.7
73	Articles of iron or steel	153	12.4	5 - 20	4.8
74	Copper and articles thereof	57	11.0	5 - 20	6.0
75	Nickel and articles thereof	18	7.2	5 - 10	2.5
76	Aluminium and articles thereof	47	11.5	5 - 20	5.6
78	Lead and articles thereof	8	7.5	5 - 10	2.5
79	Zinc and articles thereof	9	6.1	5 - 10	2.1
80	Tin and articles thereof	5	7.0	5 - 10	2.4
81	Other base metals; cermets; articles thereof	54	6.9	5 - 10	2.4
82	Tools, implements, cutlery, spoons and forks, of base metal; parts thereof of base metal	67	12.2	5 - 20	4.9
83	Miscellaneous articles of base metal	37	14.6	10 - 20	5.0
84	Nuclear reactors, boilers, machinery and mechanical appliances; parts thereof	534	6.8	5 - 20	4.1
85	Electrical machinery and equipment and parts thereof; sound recorders and reproducers, television image and sound recorders and reproducers, and parts and accessories of such articles	272	11.2	5 - 20	5.2
86	Railway or tramway locomotives, rolling-stock and parts thereof; railway or tramway track fixtures and fittings and parts thereof; mechanical (including electro-mechanical) traffic signalling equipment of all kinds	23	5.0	5	0.0
87	Vehicles other than railway or tramway rolling-stock, and parts and accessories thereof	132	11.0	5 - 20	6.2
88	Aircraft, spacecraft, and parts thereof	19	6.6	5 - 20	4.6
89	Ships, boats and floating structures	25	8.2	5 - 20	6.0
90	Optical, photographic, cinematographic, measuring, checking, precision, medical or surgical instruments and apparatus; parts and accessories thereof	158	7.4	5 - 20	4.9
91	Clocks and watches and parts thereof	49	14.2	5 - 20	5.4
92	Musical instruments; parts and accessories of such articles	17	17.1	10 - 20	4.6
93	Arms and ammunition; parts and accessories thereof	19	11.1	0 - 20	7.2
94	Furniture; bedding, mattresses, mattress supports, cushions and similar stuffed furnishings; lamps and lighting fittings, not elsewhere specified or included; illuminated signs, illuminated name-plates	42	17.9	10 - 20	4.1
95	Toys, games and sports requisites; parts and accessories thereof	32	15.8	5 - 20	6.4
96	Miscellaneous manufactured articles	59	15.3	5 - 20	5.1
97	Works of art, collectors' pieces and antiques	7	20.0	20	0.0

Source: WTO Secretariat calculations, based on data provided by the authorities.

Table A3. 2 Merchandise import and export levies

Designation	Taxable items	Collecting authority	Beneficiary	Legal basis	Tax base	Rate	Rationale/ grounds
Import duties	All imports	DGDA	Treasury	Ordinance-Law No. 011/2012 of 21 September 2012 establishing a new Tariff of Import Duties and Taxes	c.i.f.	0%; 5%; 10% and 20%	Fiscal reasons
VAT on imports	Exemptions exist	DGDA	Treasury	Ordinance-Law No. 10/001 of 20 August 2010, as amended by Ordinance-Law No. 13/007 of 23 February 2013	c.i.f. + customs duty + excise duty	16%	Fiscal reasons
Excise duties	Products subject to excise duty (imports)	DGDA	Treasury	Ordinance-Law No. 007/2012 of 21 September 2012 on the Excise Code, and Ordinance-Law No. 011/2012 of 21 September 2012 establishing a new Tariff of Import Duties and Taxes	c.i.f. + customs duty, if no excise duty c.i.f. + customs duty + excise duty, where excise duty exists	2%; 5%; 8%; 10%; 15%; 20%; 25%; 27%; 30%; 35%; 37%; 40%; 45%; 60% Cigarettes also carry a special excise duty rate of 20%	Fiscal reasons
Administrative fee	Exempt imports	DGDA	DGDA	Decree No. 011/47 of 30 December 2011 amending Ordinance No. 91-065 of 4 April 1991	c.i.f.	2%	Remuneration for services rendered by the DGDA
IT charge	Merchandise imports and exports	DGDA	DGDA	Ministerial Order No. CAB/MIN FINANCES/2013/129 of 1 October 2013	Import c.i.f. Export f.o.b.	Imports: 1%, except for petroleum products and where diplomatic privileges exist; Exports: 0.5%, except for mining products, petroleum, electricity (US$30/declaration)	To cover the costs of the maintenance and depreciation of SYDONIA computer equipment
Administrative service tax (diamonds, gold, heterogenite, copper, cassiterite, coltan, wolframite and other precious materials used for artisanal purposes)[b]	Exports of precious materials	DGDA	CEEC, CTCPM, SAESSCAM, OCC, DGDA, OGEFREM, Treasury/ DGRAD, Mines, Kimberley Commission, decentralized territorial entities	Inter-Ministerial Order No. 459/CAB.MIN/MINES/01/ 2011 and No. 295/CAB.MIN/FINANCES/ 2011 of 14 November 2011	f.o.b.	1% other ores for services and organizations; and 1% for territorial and decentralized entities	Remuneration for services rendered
Export duties	Exports	DGDA	Treasury	Ordinance-Law No. 012/2012 of 21 September 2012 establishing a new Tariff of Export Duties and Taxes	Basic value/f.o.b.	0%; 1%; 1.5%; 3%; 5%; 10%	Fiscal reasons

Designation	Taxable items	Collecting authority	Beneficiary	Legal basis	Tax base	Rate	Rationale/ grounds
Provincial tax/ KATANGAC (entry card)	All vehicles transporting merchandise	DGDA on behalf of province	Province/ Katanga	Provincial Order	c.i.f.	- US$50 per truck and bus; - US$10 per car and minibus	Provincial tax
Settlement fines: - violation of trade legislation; - importation of merchandise that has not undergone preshipment inspection or irregular importation; - fraudulent exportation; - irregular importation, exportation or transit of oil products	Imports with no inspection certificate (AV)	DGDA	60% Treasury; 40% DGRAD	Inter-Ministerial Orders No. 011/CAB/MINECOM/2013 and No. CAB/MIN/FINANCES/2013/ 1017 of 11 November 2013	c.i.f.	Equivalent to the amount payable as import duty	To formalize the economy and reinforce the import inspection programme
							Contentious fines are payable only where legislation has been violated
Tax on plant and plant product quarantine at borders	Imports of plants, plant products, seeds and cuttings, etc.	DGRAD	Treasury	Inter-Ministerial Orders No. 188/CAB/MIN/AGRI/2013 and No. 1016/CAB/MIN/FINANCES /2013 of 3 September 2013	Plants and plant products at borders	CDF 9,334	Fiscal reasons
Animal quarantine tax	Animal imports	DGRAD	Treasury	Inter-Ministerial Orders No. 188/CAB/MIN/AGRI/2013 and No. 1016/CAB/MIN/FINANCES /2013 of 3 September 2013	Animals	- CDF 1,886.80/head/day for horses and cattle; - CDF 943.40/head/day for swine, goats and sheep; - CDF 47.17/head/day for birds	Fiscal reasons
Fee for issuing phytosanitary plant inspection certificates	Imports of plants, plant products, seeds and cuttings, etc.	DGRAD	Treasury	Inter-Ministerial Orders No. 188/CAB/MIN/AGRI/2013 and No. 1016/CAB/MIN/FINANCES /2013 of 3 September 2013	Plants and plant products	- CDF 5.66/kg	Fiscal reasons
Fee for issuing foodstuff inspection certificates at borders	Imports of foodstuffs	DGRAD	Treasury	Inter-Ministerial Orders No. 188/CAB/MIN/AGRI/2013 and No. 1016/CAB/MIN/FINANCES /2013 of 3 September 2013	Foodstuffs	- CDF 7.55/kg for 100 tonnes	Fiscal reasons

Designation	Taxable items	Collecting authority	Beneficiary	Legal basis	Tax base	Rate	Rationale/ grounds
Penalties: - failure to submit declaration; - incorrect or false declaration; - unlawful use	Plants, plant products, seeds and cuttings, etc.	DGRAD	Treasury	Inter-Ministerial Orders No. 188/CAB/MIN/AGRI/2013 and No. 1016/CAB/MIN/FINANCES /2013 of 3 September 2013	Plants and plant products	- 20% of duties payable for failure to submit declaration; - 25% for false or incomplete declaration; - 50% if offence is repeated	Fiscal reasons
Tax for the inspection of toxic, sleep-inducing and narcotic products at borders	Imports of the products concerned	DGRAD	Treasury	Inter-Ministerial Orders No. 013/CAB/MIN/SP/009/AO/ 2014 and No. CAB/MIN/FINANCES/2014/ 157 of 3 September 2014	c.i.f.	CDF 18.87/kg; CDF 23.59 /kg; CDF 28.30/kg according to weight	Fiscal reasons
Tax for insect control, disinfection and/or rodent control of imported used ships, aircraft, trains and vehicles	Imports of the products concerned	DGRAD	Treasury	Inter-Ministerial Orders No. 013/CAB/MIN/SP/009/AO/ 2014 and No. CAB/MIN/FINANCES/2014/ 157 of 3 September 2014	Used vehicles (cars, buses, trucks, etc.)	- CDF 37,736; - CDF 56,604; - CDF 94,340; - CDF 47,170; etc. according to vehicle type	Fiscal reasons
Fee for the disinfection and sanitary control of worn clothing	Imports of the products concerned	DGRAD	Treasury	Inter-Ministerial Orders No. 013/CAB/MIN/SP/009/AO 2014 and No. CAB/MIN/FINANCES/2014/ 157 of 3 September 2014	Worn clothing	- CDF 23.59/kg	Fiscal reasons
Settlement fines	Imports of the products concerned when in violation of the law	DGRAD	Treasury	Inter-Ministerial Orders No. 013/CAB/MIN/SP/009/AO/ 2014 and No. CAB/MIN/FINANCES/2014/ 157 of 3 September 2014	c.i.f	- 20% of duties payable for failure to submit declaration; - 25% for false or incomplete declaration; - 50% if offence is repeated	Fiscal reasons
Settlement fines for non-payment of approval tax	Telecommunications equipment	DGRAD	Treasury	Inter-Ministerial Orders No. CAB/MIN/PT&NTIC/059/ 2014 and No. CAB/MIN/FINANCES/2014 /109 of 5 July 2014	c.i.f.	100% to 200% of approval costs	Fiscal reasons
Settlement fines for absence of export declaration or false or incomplete declaration	Exports of works of art and handicrafts	DGRAD	Treasury	Inter-Ministerial Orders No. 001/CAB/MIN/CA/2014 and No. CAB/MIN/FINANCES/2014 /073 of 19 April 2014	Value of work exported	20% for absence of declaration; 25% for false or incomplete declaration; and 50% if offence is repeated	Fiscal reasons
Settlement fines for the violation of laws on hydrocarbons	Hydrocarbons	DGRAD	DGRAD	Inter-Ministerial Orders No. M-HYD/CATM/021/CAB/ MIN/2013 and No. 1054/CAB/MIN/FINANCES/ 2013 of 28 November 2013	Hydrocarbons	Twice the amount of the evaded levy	Fiscal reasons
Share of the *ad valorem* tax to be paid for each export of diamonds, gold and coloured stones produced on a small scale	Diamonds, gold and coloured stones	DGRAD	Treasury	Inter-Ministerial Orders No. 0349/CAB.MIN/MINES/01/ 2014 and No. CAB/MIN/FINANCES/2014 /149 of 18 August 2014	0.5%; 1% and 2.5% of the f.o.b. value.	- 7% of 2.5% of the f.o.b. value for diamonds; - 7% of 0.5% of the f.o.b. value for gold; - 8% of 1% of the f.o.b. value for coloured stones	Fiscal reasons

Designation	Taxable items	Collecting authority	Beneficiary	Legal basis	Tax base	Rate	Rationale/ grounds
Settlement fines for mining products	Exports of mining products	DGRAD	Treasury	Inter-Ministerial Orders No. 0349/CAB.MIN/MINES/01/ 2014 and No. CAB/MIN/FINANCES/2014 /149 of 18 August 2014	f.o.b. value	Three to five times the rate of the evaded levy	Fiscal reasons
Settlement fines for hydraulic and electrical resources	Hydraulic and electrical resources	DGRAD	Treasury	Inter-Ministerial Orders No. 01/CAB/MIN-RHE/2013 and No. CAB/MIN/FINANCES/2013 /1018 of 14 February 2013	c.i.f.	Twice to three times the rate of the evaded tax	Fiscal reasons
Industry promotion tax	Merchandise imports	DGDA	FPI	Ordinance-Law No. 89-031 of 7 August 1989	c.i.f. + customs duty	2%	Financing of industry
FONER	Imports of lubricants, ground fuel and vehicles weighing over 3.5 tonnes	DGDA	FONER	Law No. 08/006-A of 7 July 2008 and Decree No. 08/27 of 24 December 2008		US$100/m3 for fuel, US$185 for vehicles with two axles, US$270 for vehicles with three axles, and US$340 for articulated vehicles	Financing of the construction and maintenance or roads
Laboratory analysis fee	Imports of products	OCC	OCC	OCC Directive		See OCC tariff	Cost of analysis
Fee for inspection upon arrival	Imports of merchandise that has not undergone preshipment inspection	DGDA, Single Window, and manual office of the OCC	OCC	OCC Directive	c.i.f.	2%	Cost of inspection
Preshipment inspection fee	Shipping of goods to the DRC	OCC	BIVAC/OCC	Preshipment inspection contract for goods imported into the DRC concluded between the Government represented by the DGDA and the OCC and BIVAC	f.o.b.	1.5%: 0.75% BIVAC and 0.75% OCC	Cost of preshipment inspection
OGEFREM Commission	Goods imported by sea	DGDA	OGEFREM	Inter-Ministerial Order No. 003-83 of 17 June 1983	c.i.f.	0.59%	Remuneration for services rendered
FERI (electronic import information form)	Shipping of goods to the DRC by sea	OCC, PIC, OGEFREM	OGEFREM	Ministry of Transport Order	Delivery note (BL)	€50/BL, US$295 upon arrival	Cargo monitoring
Certificate of destination (AD)	Goods in transit to the DRC	OGEFREM	OGEFREM	Ministry of Transport Order	Transport document	US$20 Mombassa and US$50 Dar es Salaam	
Vertical handling fee[d]	Goods unloaded and loaded in the ports of Matadi and Boma	DGDA/Single Window	SCPT	SCPT Directive		US$17/tonne	Handling costs
Horizontal handling fee[d]	Goods unloaded and loaded in the ports of Matadi and Boma	DGDA/ Single Window	SCPT	SCPT Directive		US$32/tonne	Handling costs
Storage charges[d]	Goods not removed from warehouse within the specified period	SCPT	SCPT	SCPT Directive			

Designation	Taxable items	Collecting authority	Beneficiary	Legal basis	Tax base	Rate	Rationale/ grounds
SONAS/Third-party vehicle insurance	Imports of vehicles	DGDA on behalf of SONAS at the Single Window and SONAS at the manual office	SONAS				To cover liability while in transit
Shipping fees	Obtaining of original transport document	Carrier's representative	Carrier's representative	None	Transport documents	US$910/container	None
Provincial tax (RPR)	Container of imported goods	Provincial revenue directorate (Bas-Congo)	Province	Provincial Order		US$120/20-foot container US$140/40-foot container	Fiscal reasons

a Bas-Congo, Kinshasa-Est, Kinshasa-Airport and Katanga.
b Kinshasa-Airport
c Katanga
d Bas-Congo
e Kinshasa
f Nord-Kivu/Kasindi

Source: Information provided by the Congolese authorities.

Table A3. 3 OCC invoicing and levies

OCC invoicing and levies
(1) *ad valorem* invoicing
i. 2% of c.i.f. value at importation
ii. Variable rates for exports
(a) 1.02% of f.o.b. value for:
• logs, decorative roots, tea, cocoa, medicinal plants, other agricultural products, oil plants and livestock, hunting and fishery products
• scrap metal
(b) 0.23% of f.o.b. value of mining products, as OCC share in 1% of mining levy
(c) 1% of f.o.b. value of goods and equipment exported on a temporary basis
(d) 0.025% of f.o.b. value of gold and precious and semi-precious mineral substances produced on a small scale, as OCC share in 1.25% of administrative service tax
(e) 0.025% of f.o.b. value of artisanal diamonds, as OCC share in 2.5% of administrative service tax
(f) 0.75% of f.o.b. value for pyrochlore
(g) 0.85% of f.o.b. value for edged sawn wood, veneer, parquet flooring and textiles
(h) 1.00% of value of edged sawn wood intended for domestic sale
iii. Inspection of domestic products (contractual rate, following negotiation with clients)
(a) 0.35% of turnover for mills, breweries and soft drink manufacturers
(b) 0.30% of turnover for sawn and edged wood
(c) 0.47% of turnover for cement works
(d) 0.50% of turnover for oil mills, sugar refineries and related products
(e) 0.45% of turnover for soap factories
(f) 1.00% of turnover for cosmetics
(g) 1.50% of turnover for tobacco products
iv. Management system certification
(a) 0.30% of turnover of certified company, as licensing fee
v. Product certification
(a) 0.30% of turnover of certified company, as licensing fee
(b) 0.30% of turnover, as single billing rate
vi. For hydrocarbons
(a) Quantitative and qualitative certification of petroleum products supplied, imported or in transit through eastern and southern entry routes
1. 1.6% c.i.f.
(b) Quantitative and qualitative certification of lubricants and greases supplied, imported or in transit
2. 1.6% f.o.b.
vii. For technical controls
(a) 2% of cost of environmental component, as fee for approving environmental and social management plans (ESMP) for projects
(b) Inland navigation inspection
3. Determination of market value (mortgage)
➢ 0.50% of value, 0 to 8 years
➢ 1.00% of value, 9 to 16 years
➢ 2.00% of value, 17 to 40 years
4. New builds
➢ 1.20% of unit value
(c) Miscellaneous inspections
Monitoring of ongoing work upon client's request
➢ 1.50% of value for inspection
➢ 1.50% of value for tests
5. Export inspection of materials, equipment and apparatus
➢ 2.00% of value, carried out upon request, minimum US$250,000
6. Export inspection of aircraft
➢ 2.50% of value, ≥ US$75,000
➢ 2.00% of value, US$100,000 to US$250,000
➢ 1.50% of value, US$250,001 to US$500,000
➢ 1.00% of value, US$500,001 to US$50,000
➢ 0.50% of value, US$750,001 to US$1,000,000
➢ 0.25% of value, > US$1,000,000
7. Import inspection of aircraft
➢ 1.00% of value, with a minimum of US$2,500
8. Import inspection of motor vehicles
➢ 1.00% of value, with a minimum of US$250
9. Assessment of machinery and equipment
➢ 2.00% of value, with a minimum of US$250
10. Real estate appraisal
➢ 3.00% of value, ≤ US$50,000
➢ 2.75% of value, US$50,001 to US$350,000
➢ 2.25% of value, US$350,001 to US$700,000
➢ 2.00% of value, US$700,001 to US$1,050,000
➢ 1.75% of value, US$1,050,001 to US$1,400,000
➢ 1.50% of value, US$1,400,001 to US$1,750,000
➢ 1.25% of value, US$1,750,001 to US$2,100,000

OCC invoicing and levies
➢ 1.00% of value, US$2,100,001 to US$2,450,000
➢ 0.75% of value, US$2,450,001 to US$2,800,000
➢ 0.50% of value, > US$2,800,000
(2) Specific invoicing
A minimum of US$200 per clean report of findings (AV) or rejection notice (ARA), through the application of 2% c.i.f. of goods subject to preshipment inspection
i. Inspection upon arrival, a minimum of
(a) US$25 for 0 ≤ f.o.b. ≤ 500
(b) US$50 for 501 ≤ f.o.b. ≤ 1,000
(c) US$100 for 1,001 ≤ f.o.b. ≤ 2,499
(d) US$200 for 2,500 ≤ f.o.b. ≤ 10,000 for merchandise exempt from preshipment inspection
(e) US$400 for 2,500 ≤ f.o.b. ≤ 10,000 for merchandise not exempt from preshipment inspection
ii. FERI control on behalf of OGEFREM
(a) For departure FERI
11. €60 per 20 foot container
12. €110 per 40 foot container
13. €0.50 /tonne or €0.50/m^3 for general bulk cargo
14. €4/tonne or €4/m^3 for LCL container "GENCO" and rolling stock
(b) For regularisation FERI (where no departure FERI): US$250
iii. For hydrocarbons
(c) Quantitative and qualitative certification for exports of Congolese crude oil
15. US$0.25 net/barrel
(d) Quantitative and qualitative certification for petroleum products supplied, imported or in transit through western entry route
16. US$7.16/MT
(e) Ship's and aircraft's stores for foreign vessels and aircraft
17. US$0.35/litre
iv. Damage assessment
(a) US$100 for file management fees (FDG)
(b) US$50 for simple addition (AS)
(c) US$75 for additional activity (Act)
(d) Damage Service fees for monitoring and damage assessment
18. US$265 minimum charge
19. US$50 per additional work period per day
20. US$50 per day of assessment at a distance of over 25km
21. US$300 for destruction
22. US$120 for minimal loss (value of loss ≤ US$500)
(e) Surveillance and prevention mission
23. Break bulk cargo (cereals, flour, sugar, beans, etc.)
➢ US$0.40 per tonne per stage for merchandise with a tonnage of < 1,000 tonnes
➢ US$0.82 per tonne per stage for merchandise with a tonnage of ≥ 1,000 tonnes
24. Merchandise in ordinary containers
➢ US$131.40 per stage for homogenous consignments (cereals)
➢ US$197.08 per stage for heterogeneous consignments or products other than cereals
25. Merchandise in refrigerated containers
➢ US$262 per stage
➢ US$197.08 per stage for heterogeneous consignments or products other than cereals
26. US$90 per hour for other interventions (investigations, inquiries, etc.)
v. Inspection of local products (normal rate for non-affiliated clients)
(a) US$80 per hour as inspection fee (1)
(b) US$2 per km for travel costs (2)
(c) Test fees (3) in accordance with current laboratory rates
(d) 20% of [(1)+(2)+(3)] for administrative charges
vi. Management system certification
(a) US$2,500 as fee for certification request (1)
(b) US$150 per hour as audit fee (2)
(c) Proved/justified expenses (3), in particular travel, hotel, restaurant, local transport and per diem expenses
(d) US$20 of [(1)+(2)+(3)] for administrative fees
vii. Product certification
(a) US$2,500 as certification request fee (1)
(b) US$150 per hour as audit fee (2)
(c) Test fees (3) in accordance with current laboratory rates
(d) Proved/justified expenses (4), in particular travel, hotel, restaurant, local transport and per diem expenses
(e) 20% of [(1)+(2)+(3)+(4)] for administrative fees
viii. Chemistry or microbiology laboratory tests or analyses; the usual specific rates for 3 to 10 parameters are:
(a) US$90
(b) US$120
(c) US$150
(d) US$180
(e) US$210
(f) US$240

OCC invoicing and levies
(g) US$250
(h) US$270
(i) US$300
i.e. an average of between US$25 and US$40 per parameter
Technical controls
(a) US$1 to US$1,465
Legal, scientific and industrial metrology
(a) US$1 to US$18,000
(3) Contractual invoicing, *ad valorem* or specific
i. 0.40% of f.o.b. value of diamonds industrially produced by MIBA
ii. 1.02% for CINAT cement
iii. 0.70% for CILU cement
iv. Technical controls according to contract

Source: Information provided by the authorities.

Table A4. 1 Customs duties, by ISIC Rev.2 category, 2015

ISIC	Description	Number of lines	Simple average (%)	Range (%)	Standard deviation	CV[a]
	Total	5,842	11.2	0 - 20	6.1	0.5
1	Agriculture, hunting, forestry and fishing	395	10.0	0 - 20	4.8	0.5
11	Agriculture and hunting	300	9.0	0 - 20	3.9	0.4
12	Forestry and logging	21	11.2	5 - 20	7.1	0.6
121	Sylviculture	13	5.8	5 - 10	1.8	0.3
122	Forestry	8	20.0	20,0	0.0	0.0
13	Fishing	74	13.8	5 - 20	5.1	0.4
1301	Ocean and coastal fishing	66	13.6	5 - 20	5.0	0.4
1302	Fishing not elsewhere classified	8	15.0	10 - 20	5.0	0.3
2	Mining and quarrying	99	7.1	5 - 20	4.3	0.6
21	Coal mining	4	5.0	5,0	0.0	0.0
22	Crude petroleum and natural gas production	4	8.8	5 - 10	2.2	0.2
23	Metal ore mining	23	5.0	5,0	0.0	0.0
2301	Iron ore mining	2	5.0	5,0	0.0	0.0
2302	Non-ferrous ore mining	21	5.0	5,0	0.0	0.0
29	Other mining	68	7.8	5 - 20	4.9	0.6
2901	Mining of feldspar	32	7.0	5 - 10	2.5	0.3
2902	Chemical and fertilizer mineral mining	12	5.0	5,0	0.0	0.0
2903	Salt mining	3	11.7	5 - 20	6.2	0.5
2909	Mining and quarrying not elsewhere classified	21	10.0	5 - 20	7.1	0.7
3	Manufacturing	5,347	11.4	0 - 20	6.1	0.5
31	Manufacture of food, beverages and tobacco	635	12.5	5 - 20	5.1	0.4
311	Food manufacturing	503	11.9	5 - 20	4.7	0.4
3111	Meat products	101	10.0	5 - 20	2.1	0.2
3112	Manufacture of dairy products	22	12.0	5 - 20	6.3	0.5
3113	Canning and preserving of fruits and vegetables	110	14.0	5 - 20	5.6	0.4
3114	Fish industry	152	11.2	10 - 20	3.2	0.3
3115	Manufacture of vegetable and animal oils and fats	53	11.9	5 - 20	5.9	0.5
3116	Grain mill products	33	9.4	5 - 20	2.7	0.3
3117	Manufacture of bakery products	11	18.6	5 - 20	4.3	0.2
3118	Sugar factories and refineries	8	14.4	5 - 20	7.3	0.5
3119	Manufacture of cocoa, chocolate and sugar confectionery	13	14.6	10 - 20	5.0	0.3
312	Manufacture of other food products and prepared animal feeds	64	10.9	5 - 20	4.6	0.4
3121	Manufacture of food products not elsewhere classified	53	11.6	5 - 20	4.5	0.4
3122	Manufacture of prepared animal feeds	11	7.3	5 - 10	2.5	0.3
313	Beverage industries	59	18.3	5 - 20	4.1	0.2
3131	Distillation of spirits and manufacture of alcohol	33	18.8	10 - 20	3.3	0.2
3132	Wine industries	14	17.9	10 - 20	4.1	0.2
3133	Production of malt liquors and malt	4	12.5	5 - 20	7.5	0.6
3134	Soft drinks and carbonated waters industries	8	20.0	20,0	0.0	0.0
314	Tobacco manufactures	9	20.0	20,0	0.0	0.0
32	Textile, wearing apparel and leather industries	972	14.6	5 - 20	6.2	0.4
321	Manufacture of textiles	780	13.8	5 - 20	6.3	0.5
3211	Spinning, weaving and finishing textiles	482	11.2	5 - 20	6.0	0.5
3212	Manufacture of made-up textile goods except wearing apparel	67	17.2	5 - 20	5.0	0.3
3213	Knitting mills	158	19.6	10 - 20	1.9	0.1
3214	Manufacture of carpets and rugs	21	20.0	20,0	0.0	0.0
3215	Cordage, rope and twine industries	10	18.5	5 - 20	4.5	0.2
3219	Manufacture of textiles not elsewhere classified	42	12.9	10 - 20	4.5	0.4
322	Manufacture of wearing apparel, except footwear	127	19.6	10 - 20	1.9	0.1
323	Manufacture of leather and fur products, except footwear	52	13.3	5 - 20	5.0	0.4
3231	Tanneries and leather finishing	28	9.6	5 - 10	1.3	0.1
3232	Fur dressing and dyeing industries	7	12.9	10 - 20	4.5	0.4
3233	Manufacture of leather products, except footwear	17	19.4	10 - 20	2.4	0.1
324	Manufacture of footwear, except vulcanized or moulded rubber or plastic footwear	13	19.2	10 - 20	2.7	0.1
33	Manufacture of wood and wood products, including furniture	160	19.1	5 - 20	3.1	0.2
331	Manufacture of wood and wood products, except furniture	137	19.1	5 - 20	3.2	0.2
3311	Sawmills, planing and other wood mills	105	19.7	5 - 20	2.1	0.1
3312	Manufacture of wooden and cane containers and small cane ware	14	20.0	20,0	0.0	0.0
3319	Manufacture of wood and cork products	18	14.7	5 - 20	5.4	0.4
332	Manufacture of furniture and fixtures, except primarily of metal	23	19.1	10 - 20	2.8	0.1
34	Manufacture of paper and paper products, printing and publishing	171	12.5	0 - 20	5.5	0.4
341	Manufacture of paper and paper products	129	11.7	5 - 20	4.9	0.4

ISIC	Description	Number of lines	Simple average (%)	Range (%)	Standard deviation	CV[a]
3411	Manufacture of pulp, paper and paperboard	77	9.9	5 - 20	4.0	0.4
3412	Manufacture of containers and boxes of paper and paperboard	10	19.0	10 - 20	3.0	0.2
3419	Manufacture of pulp, paper and paperboard articles not elsewhere classified	42	13.3	10 - 20	4.7	0.4
342	Printing, publishing and allied industries	42	14.9	0 - 20	6.4	0.4
35	Manufacture of chemicals and chemical, petroleum, coal, rubber and plastic products	1,142	8.6	0 - 20	5.3	0.6
351	Manufacture of industrial chemicals	680	5.8	5 - 20	2.4	0.4
3511	Manufacture of basic industrial chemicals	514	5.4	5 - 20	1.5	0.3
3512	Manufacture of fertilizers and pesticides	29	5.0	5,0	0.0	0.0
3513	Manufacture of synthetic resins and plastic materials, except glass	137	7.3	5 - 20	4.1	0.6
352	Manufacture of other chemical products	276	12.2	5 - 20	6.0	0.5
3521	Manufacture of paints, varnishes and laquers	16	9.7	5 - 10	1.2	0.1
3522	Manufacture of drugs and medicines	95	7.3	5 - 20	4.0	0.5
3523	Manufacture of soap	52	18.5	10 - 20	3.6	0.2
3529	Manufacture of chemical products not elsewhere classified.	113	13.7	5 - 20	5.2	0.4
353	Petroleum refineries	39	9.6	0 - 20	3.5	0.4
354	Manufacture of miscellaneous products of petroleum and coal	15	11.7	5 - 20	5.4	0.5
355	Manufacture of rubber products	99	14.4	5 - 20	5.3	0.4
3551	Tyre and tube industries	41	13.9	10 - 20	4.9	0.4
3559	Manufacture of rubber products not elsewhere classified	58	14.8	5 - 20	5.5	0.4
356	Manufacture of plastic products not elsewhere classified	33	15.3	5 - 20	5.6	0.4
36	Manufacture of non-metallic mineral products, except products of petroleum and coal	179	15.2	5 - 20	5.5	0.4
361	Manufacture of pottery and china	16	16.3	10 - 20	4.8	0.3
362	Manufacture of glass and glass products	67	13.8	5 - 20	5.4	0.4
369	Manufacture of other non-metallic mineral products	96	16.0	5 - 20	5.5	0.3
3691	Manufacture of structural clay products	17	14.1	5 - 20	6.5	0.5
3692	Manufacture of cement, lime and plaster	9	9.4	5 - 20	4.4	0.5
3699	Manufacture of non-metallic mineral products not elsewhere classified	70	17.4	5 - 20	4.5	0.3
37	Basic metal industries	399	9.1	5 - 20	4.3	0.5
371	Iron and steel basic industries	221	9.3	5 - 20	3.3	0.4
372	Non-ferrous metal basic industries	178	8.8	5 - 20	5.3	0.6
38	Manufacture of fabricated metal products, machinery and equipment	1,485	9.6	0 - 20	5.7	0.6
381	Manufacture of fabricated metal products, except machinery and equipment	255	13.5	5 - 20	5.3	0.4
3811	Manufacture of cutlery and general hardware	75	13.0	5 - 20	5.3	0.4
3812	Manufacture of furniture and fixtures primarily of metal	9	18.9	10 - 20	3.1	0.2
3813	Manufacture of structural metal products	23	10.0	5 - 20	5.7	0.6
3819	Manufacture of fabricated metal products except machinery and equipment not elsewhere classified	148	14.0	5 - 20	5.0	0.4
382	Manufacture of machinery except electrical	529	7.1	0 - 20	4.5	0.6
3821	Manufacture of engines and turbines	12	5.0	5,0	0.0	0.0
3822	Manufacture of agricultural machinery and equipment	36	5.0	5,0	0.0	0.0
3823	Manufacture of metal and wood working machinery	108	5.5	5 - 10	1.5	0.3
3824	Manufacture of special industrial machinery and equipment	147	5.1	5 - 20	1.3	0.3
3825	Manufacture of office machinery	35	8.1	5 - 20	4.3	0.5
3829	Machinery and equipment except electrical not elsewhere classified	191	9.9	0 - 20	5.9	0.6
383	Manufacture of electrical machinery and apparatus	275	11.2	5 - 20	5.3	0.5
3831	Manufacture of electrical motors and apparatus	63	7.2	5 - 10	2.5	0.3
3832	Manufacture of radio, television and communication equipment and apparatus	116	12.3	5 - 20	5.9	0.5
3833	Manufacture of electrical appliances and housewares	26	17.7	10 - 20	4.2	0.2
3839	Manufacture of electrical apparatus not elsewhere classified	70	10.5	5 - 20	2.8	0.3
384	Manufacture of transport equipment	215	9.1	5 - 20	5.9	0.6
3841	Shipbuilding and repairing	30	7.7	5 - 20	5.6	0.7
3842	Manufacture of railroad equipment	23	5.0	5,0	0.0	0.0
3843	Manufacture of motor vehicles	114	10.5	5 - 20	6.2	0.6
3844	Manufacture of motorcycles and bicycles	17	13.8	5 - 20	5.3	0.4
3845	Manufacture of aircraft	25	5.6	5 - 20	2.9	0.5

ISIC	Description	Number of lines	Simple average (%)	Range (%)	Standard deviation	CV[a]
3849	Manufacture of transport equipment not elsewhere classified	6	7.5	5 - 20	5.6	0.7
385	Professional and scientific equipment	211	9.3	5 - 20	5.8	0.6
3851	Professional, scientific and measuring equipment	107	5.8	5 - 20	2.7	0.5
3852	Manufacture of photographic and optical goods	56	11.9	5 - 20	6.2	0.5
3853	Manufacture of watches and clocks	48	14.3	5 - 20	5.4	0.4
39	Other manufacturing industries	204	15.2	0 - 20	5.6	0.4
3901	Manufacture of jewellery and related articles	28	15.0	0 - 20	6.3	0.4
3902	Manufacture of musical instruments	18	17.2	10 - 20	4.5	0.3
3903	Manufacture of sporting goods	29	16.7	5 - 20	5.9	0.4
3909	Manufacturing industries not elsewhere classified	129	14.7	5 - 20	5.3	0.4
4	Electricity	1	10.0	10,0	0.0	0.0

Note: Duty rates are missing for four tariff lines.

a Coefficient of variation (CV).

Source: WTO Secretariat calculations based on data provided by the authorities.