



# Rush and Ruin

**The Devastating  
Mineral Trade in  
Southern Katanga, DRC**

## 1 Recommendations

The international donor community should:

- Develop innovative immediate and long-term solutions to ensure that the continued misuse of natural resources in the DRC is ended. Existing donor aid should mainstream natural resource governance into policies on trade, development, humanitarian and security issues.
- Require that companies investing in the DRC’s natural extractive sectors publish what they pay to the DRC government, including a break down of all fees, exploitation and exporting licensing agreements, and monies paid under joint venture agreements.
- As a condition of non-humanitarian assistance, require of the DRC government public disclosure of all government revenues from natural resource extractive sectors to ensure donor aid is used effectively and that all revenues are being used accountably.
- Work with the World Bank and the IMF to coordinate policies on natural resource management to address the lack of capacity in the Ministry of Mines and customs offices to gather reliable information on the extraction and trade in minerals.
- Further work with the World Bank and the IMF to ensure that full systems and financial audits of the Ministry of Mines, Cadastre Minier and Ministry of Finance are carried out by the DRC government as a condition of non-humanitarian assistance.
- Develop an integrated strategy to address problems faced by artisanal miners in the DRC. An International Labour Organisation’s 2004 study into working conditions in Katanga’s mines could form part of a comprehensive programme ending child labour and dangerous working conditions. The strategy should also include working with local groups to form artisanal miner cooperatives.





*The World Bank should:*

- Make non-humanitarian aid conditional on the DRC government commissioning a full independent and internationally verifiable systems and finance audits of all existing mining contracts and also of the Ministry of Mines, Cadastre Minier, the Ministry of Finance and associated departments both in Kinshasa and Katanga. The World Bank should work with the IMF to ensure the DRC government carries out these audits and that results are made public and are used to inform donor policy on improving resource governance and mining sector capacity building as soon as possible.
- Proceed with commitments to develop alternative employment opportunities for ex-Gécamines workers and other unemployed people in Katanga.
- Explore options to revive mineral processing capacity within Gécamines and other companies in order to prevent losses to the Congolese economy through the exportation of raw material.

*The International Monetary Fund should:*

- Apply its current “best practice” to promote transparency of resource revenues in Congo-Brazzaville to the DRC.
- Incorporate revenue transparency into the IMF’s safeguard policies for lending to resource-revenue-dependent developing countries.
- Collaborate with the World Bank to require the carrying out of systems and financial audits of the Ministry of Mines and Cadastre Minier, and in addition, require the carrying out of an external systems and financial audit of the Ministry of Finance as part of the set of structural performance criteria the DRC government must implement under the IMF country assistance programme.
- Further require that the transitional government proceed with customs sector (OFIDA) reform to ensure taxes on exported ores are collected in accordance with the Mining Code.

*The transitional government should:*

- Cooperate fully with the international donor community to reform the mining sector, build institutional and enforcement capacity within the Ministry of Mines and the customs office (OFIDA) to enforce the Mining Code.
- Ensure that the export of heterogenite is accurately recorded, assayed and then taxed according to prevailing international mineral prices.
- Ensure statistics published by the Central Bank on state revenues earned through the exploitation, trade and export of minerals in the DRC are accurate and that statistics represent minerals extracted and processed by private companies as well as Gécamines.
- Firmly commit to making anti-corruption, transparency and accountability priority areas by publishing the results of systems and finance audits of the Ministry of Mines, Cadastre Minier and Ministry of Finance.
- Maintain and publish a full register of all mining licences, agreements and awards issued under the new Mining Code by the Cadastre Minier; as well as periodic publication of all revenues earned through the issuing of mining licences and permits, joint venture and other agreements, as well as revenues earned through the collection of taxes under the Mining Code.
- Ensure that all revenues generated through natural resource extraction by constituent members of the government are directly channelled through the Ministry of Finance and Central Bank.

*The United Nations should:*

- Work with the World Bank, other donors, and local and international development NGOs to develop alternative sources of employment in Katanga for artisanal miners. For example, the UN and other donors could assist in the development and improvement of infrastructure and encourage a return to community agricultural production in some of the poorest mining areas in Katanga.

# Rush and Ruin

## The Devastating Mineral Trade in Southern Katanga, DRC

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## 2 Executive Summary

**T**HIS REPORT EXPOSES the dynamics of the rush to exploit cobalt and copper in Katanga (south-eastern Democratic Republic of Congo (DRC)), and how the illicit trade in these minerals is contributing to the ruin of the DRC's economy, the environment and the livelihoods of thousands of Congolese people. There is currently a "cobalt rush" occurring in Katanga caused by record-high international cobalt prices but there is little indication this dramatic rise in trade has had any benefit to the DRC economy or the Katangan province.

The DRC is now slowly emerging from a devastating conflict, and its fragile transitional government is tasked with bringing the country through to elections in 2005 - as well as implementing desperately needed fiscal and institutional reforms. During a time that the international donor community is providing billions of dollars in aid that partly assists the improvement of revenue collection and public expenditure management in the DRC, the state is losing vast quantities of revenues due to an appalling lack of control over the mining sector. A lack of transparency in mining revenue management coupled with a vast capacity deficit in key government institutions renders determining the precise loss to the DRC economy impossible.

Discrepancies between official figures are illustrative: in March 2004 the Central Bank of Congo reported the DRC produced 783 tonnes of cobalt metal. In the same month, the DRC's customs office reported 13,365 tonnes of cobalt metal was exported - a difference of over 12,000 tonnes. This discrepancy raises serious questions about where mining revenues are going and how trade and production is being recorded. Given that industry experts estimate that the DRC processes a maximum 1,000 to 1,500 tonnes of cobalt metal per year, the figure of 13,365 tonnes is wholly inaccurate. The situation is made even more serious as investigations in Katanga reveal that only a minute fraction of trade in minerals is officially recorded: the vast majority of trade is illicit.

The DRC has in place a new Mining Code designed to attract foreign investment by providing a legal framework that provides clarity and certainty. However, the Code is yet to be applied on the ground in Katanga, leading to the mining sector being virtually uncontrolled and non-transparent to continue. Again, this is caused by a combination of an absence of regulatory capacity and a lack of political will in Kinshasa to bring the trade under control. Current world prices for cobalt stand at US\$55,100 per tonne, but the DRC does not have the industrial facilities or capacity to effectively gain from record-high cobalt prices.

However, the real losers in the "cobalt rush" are artisanal miners working under appalling conditions in mines throughout southern Katanga. Deprived of any alternative sources of employment, young men and boys work for as little as US\$1 per day gathering mineral soil by hand. They have no protective equipment, and their activities are left completely unregulated by local authorities.

The report also cautions that the current status of mining in Katanga is not simply an economic and social problem. The rush to extract and export valuable minerals from Katangan mines, and the lack of distribution of benefits from this trade could also fuel a resurgence of historical secessionist sentiments.

The DRC has extraordinary natural wealth, but this wealth has never been used for the benefit of the Congolese population. Mining revenues from Katanga could - and should - be used to consolidate peace and promote economic development in the DRC. The international community must coordinate its donor aid policies and work closely with the DRC's transitional government to ensure that the mining sector is controlled effectively and transparently to combat corruption and illegality. This is the only way the DRC will be able to properly harness its own wealth to fund its economic, social and political rehabilitation for the benefit of all Congolese people.

### Abbreviations

<b>ANR</b>	Agence Nationale Renseignements
<b>ASIC</b>	Alex Stewart International Corporation
<b>Chemaf</b>	Chemicals of Africa
<b>DRC</b>	Democratic Republic of Congo
<b>EMAK</b>	Association d'Exploitants Miniers Artisanaux du Katanga
<b>Gécamines</b>	La Generale Des Carrieres et Des Mines
<b>IAEA</b>	International Atomic Energy Agency
<b>IEC</b>	Independent Electoral Commission
<b>IMF</b>	International Monetary Fund
<b>MONUC</b>	United Nations Organisation Mission in the Democratic Republic of Congo
<b>NGO</b>	Non-Governmental Organisation
<b>OFIDA</b>	L'Office des Douanes et Accises
<b>PPRD</b>	Parti du Peuple pour la Reconstruction et la Démocratie
<b>RCD</b>	Rassemblement Congolais pour la Démocratie
<b>SDC</b>	Superior Defence Council
<b>SOMIKA</b>	Société Minière du Katanga
<b>TNG</b>	Transitional government
<b>UMHK</b>	Union Minière du Haut-Katanga
<b>UN</b>	United Nations
<b>USSR</b>	Union of Soviet Socialist Republics

### 3 Introduction

**S**TRINGENT AND TRANSPARENT management of natural resource exploitation is crucial to the future peace, stability and economic development of the Democratic Republic of Congo (DRC). The DRC is a country of extraordinary natural wealth, but this wealth has never been used for the benefit of the Congolese population. Currently the DRC is beginning to emerge from the effects of a conflict partly fuelled by natural resources that has claimed the lives of over 3 million people since 1998.<sup>1</sup> Just as natural resources have been central to the DRC's recent war, resource exploitation is also at the core of assumptions about how the country will fund rehabilitation and economic revival. In particular, the mining sector in the DRC is seen as a potential large revenue earner. However, as this report illustrates, hopes of a mining-led economic recovery in the DRC will not be realised unless immediate action is taken to control the illicit trade in minerals from the south-eastern province of Katanga.

This report focuses on the illicit trade in heterogenite – rich soil containing copper, cobalt, zinc and other minerals – from the mineral-rich province of Katanga. This report is a follow-up to *Same Old Story – A background study on natural resources in the Democratic Republic of Congo*, a report published by Global Witness in June 2004. Whereas *Same Old Story* examined historical patterns of resource exploitation in the DRC, this report uncovers the current dynamics of the trade in the DRC's cobalt, copper and related minerals.

Katanga is a province that has managed to escape some of the ravages of armed conflict that have engulfed eastern DRC since 1998. Throughout the conflict, Katanga has remained under the control of central government in Kinshasa – a consequence of its high strategic economic importance to the government. Katanga is incredibly rich in natural resources: the Central African copperbelt, located along the DRC/Zambia and DRC/Angola borders in Southern Katanga, contains over one-third of the world's cobalt reserves, as well as significant quantities of copper, nickel, uranium, silver and lead.<sup>2</sup> Mining revenues from this copperbelt – the richest source of copper and cobalt in the world<sup>3</sup> – could potentially be used to restart the Congolese economy and support the economic development that the DRC desperately needs. The potential contribution Katanga's minerals can add to the wider DRC economy has recently taken on particular urgency, as cobalt prices have tripled since May 2003<sup>4</sup> and at the time of writing stood at US\$25 per pound.<sup>5</sup>

Global Witness chose to analyse the dynamics of trade in resources in Katanga as this is a province where the DRC government has maintained control since 1998. The province has been relatively unaffected by the recent conflict. Katanga is an area where, in principle, the implementation of laws should be relatively straightforward. If the

government, with the assistance of its international donor partners, is to put resource governance on track, then the mining sector in Katanga is the ideal starting point.

However, as detailed in this report, Katanga is in desperate need of practical mechanisms to oversee resource exploitation to curb the growing illicit trade in cobalt, copper and other minerals. The international community must provide comprehensive support to building capacity within the Ministry of Mines, customs offices and other organs of government to implement the DRC's new Mining Code. The DRC's international partners should also work to ensure that revenues generated through mineral exploitation are handled transparently and managed responsibly.

This report begins in Section 4 by placing Katanga within the context of major political and security issues facing the DRC. The wider political environment is important to consider from the point of view of attracting foreign investment: the more stable the DRC is, the more likely foreign companies will look to invest in Katanga. Section 5 looks briefly at the current political conditions in the DRC and potential deterrents to the foreign investment that the mining sector in Katanga so desperately needs.

The dynamics of the trade in heterogenite are explained in section 6, which tracks the minerals from mine to export. This section also looks at weaknesses and problems faced by the DRC customs office (OFIDA), an institution currently undermining the country's ability to control resource flows. Section 7 presents a detailed case-study of one mine, the infamous Shinkolobwe uranium mine, to illustrate why greater control must be exerted immediately over the mining sector in Katanga.

Section 8 involves a comparison of the Mining Code with the situation on the ground in Katanga. Despite the fact that Katanga remained under control of the central government throughout the recent conflict, enforcement of the Code on the ground has been extremely slow. The report then overviews the local impact of heterogenite trade in Katanga in section 9.

The report then illustrates how patchy statistics and an inability to control the trade mean that the DRC state is not capturing the true value of the minerals being extracted and exported. Section 10 analyses trade statistics from countries surrounding the DRC, South Africa and most significantly China – the destination for the majority of the DRC's exported heterogenite. Finally, Section 11 examines current donor policy in the DRC, looking at the aid and projects currently provided by the major international donors. This section highlights the lack of capacity building and initiatives to combat corruption currently being instigated by the donor community and suggests that donors must work together to ensure that the DRC can start to capture revenues from natural resources more effectively and thus benefit from its huge natural resource wealth.

## 4 The economic and political strategic importance of Katanga

**T**HIS SECTION PROVIDES an overview of why Katanga is of economic and political strategic importance to the DRC. The section traces historical mineral extraction in Katanga before discussing the Katangan secession movement. The section ends by warning that unless Katanga's mineral wealth is captured in a way that has tangible benefits for the local population, growing popular resentment could fuel a resurgence of secessionist sentiment.

### Historical background

The area of south-eastern DRC now known as Katanga has long been distinct from the rest of the DRC in terms of its readily exploitable natural wealth, as well as its distinct political history. Copper has been mined and exported by Katanga's inhabitants since at least the late 16th century. Much of Katanga was controlled by the Lunda and Luba kingdoms from the 17th century until the late 19th century, when M'Siri, a Nyamwezi trader from what is now central Tanzania, founded a kingdom in the area. M'Siri was killed by the Belgians in 1891.<sup>6</sup>

Due to Katanga's mineral wealth, the province was exploited by Belgian firms and was developed more rapidly than the rest of the Congo from 1884–1960.<sup>7</sup> From 1884 to 1910, Katanga was administered separately from the rest of King Leopold's Congo Free State by the privately owned Special Committee of Katanga (Comité Spécial du Katanga). In 1910, administration was handed over to a Vice-Governor General, but the province was still run separately from the rest of the Congo. Under the Belgian administrative reorganization in 1933, Katanga was brought under the central control of colonial authorities in Léopoldville (now Kinshasa). This move was resented by Katangan residents who were proud of the province's predominant role in the Congo's economy, which had engendered a sense of separateness.<sup>8</sup>

### Katangan secessionist movement

Soon after the Belgian Congo became independent on 30 June 1960, Patrice Lumumba became Prime Minister, with Joseph Kasavubu as Head of State. However, the newly formed Republic of Congo was soon pulled apart by regional rivalries, often encouraged by Belgian interests. Katanga was the main example of this: with Belgian backing on 11 July 1960 Moïse Tshombe declared Katanga as independent. Three days later the UN Security Council voted to send a force to the Congo to help establish order. However the force was not allowed to intervene in internal affairs and thus could not act against the Katangan secession. Instead Lumumba turned to the USSR for help against Katanga.<sup>9</sup> On 5 September 1960 Lumumba was dismissed as Prime Minister by Kasavubu, and he was killed in February 1961.

By the beginning of 1961 the Congo was disarray. The country had four quasi-independent components: Col. Joseph Mobutu (later Mobutu Sese

Seko) held the west, including Kinshasa; Antoine Gizenga controlled the east from Kisangani (then called Stanleyville); Albert Kalonji controlled South Kasai; and Tshombe headed Katanga. Tshombe's control over Katanga was aided by Belgian and other foreign soldiers. It was the Katangan secession that particularly weakened the national government, the province being of vital economic importance to the Congo. In April 1961, Tshombe was arrested by the central government, but he was freed in June after agreeing to end the Katanga secession. However, Tshombe again proclaimed Katangan independence in July 1961.

Soon after Tshombe's proclamation, UN forces attempted disarming Katangese soldiers, but by December UN and Katangese forces were engaged in armed battles. Throughout 1962, Tshombe maintained his autonomous position. However, renewed fighting against the UN in December 1962 forced Tshombe to give in. Tshombe agreed to end Katanga's secession in January 1963.

At the end of June 1964, the last UN troops were withdrawn from the country. In order to appease remaining secessionist factions, Kasavubu appointed Tshombe Prime Minister in July 1964. However, the move sparked large-scale rebellions and the Congo was only gradually brought under the control of the central government with the U.S. arms, Belgian troops, and white mercenaries.

After the secession movement was quelled, mining in Katanga resumed providing the central government with a major source of revenue. In 1966

Artisanal mine, Kolwezi, DRC, May 2004.





the government nationalized Union Minière du Haut Katanga, the Belgian firm that had controlled most of Katanga's mining interests, renaming the company Gécamines. Under Mobutu's rule Katanga was renamed Shaba in 1971, but the original name was restored in 1997. Throughout the 1970s further insurrections were put down by Mobutu, but in the 1990s there was again talk of secession.<sup>10</sup>

### The decline of the mining sector and rising resentment

The copperbelt running through Katanga and Zambia contains 34% of the world's cobalt reserves, and 10% of the world's copper reserves. During the 1960s and 1970s the DRC (Zaire) was the world's leading producer of copper and cobalt. However, a sharp rise in cobalt prices in 1978 led to a drop in demand for the DRC's cobalt. This coincided with the rapid decline of cobalt and copper mining production in the DRC due to decades of patrimony, endemic corruption and under-investment in the mining sector under Mobutu. In the 1990s, cobalt prices recovered but by this time the proportion of cobalt supplied to world markets by the DRC had dropped as buyers had already established new markets. Today, the DRC remains one of the world's top producers of cobalt despite a chronic lack of controls over the mining sector and the recent near-collapse of Gécamines. However, through the collapse of processing operations in Lubumbashi, Likasi and Kolwezi the DRC has lost virtually all of its capacity to produce cobalt ores and concentrates (cobalt metal). International governmental and commercial assistance is necessary to re-start metal



Courtesy of CRU Analysis

production within the DRC.

Secessionist tendencies have periodically re-emerged in Katanga since the 1960s. According to some analysts, present-day secessionist moves are also "driven by the perception that mining profits are not benefiting Katangans but rather foreign companies and the Kinshasa powerbase."<sup>11</sup> Crucially, many Katangans believe their problems are not being addressed but actively ignored by the international community. If the United Nations and international donor community is committed to peace and development in the DRC, then it is vital that Katanga is not overlooked in the push towards national elections. If growing inequalities and rising levels of poverty are not addressed, then there is a chance that popular resentment may lead to a resurgence of separatist tendencies.

## 5 Katanga in national context: are current political conditions a deterrent against investment?

**I**F FOREIGN INVESTORS are looking to channel money into the mining sector in the DRC, then inevitably they will look for assurances that they are investing in a stable political and economic environment.

Unfortunately over the past few months, signs of stability in the DRC have been scarce.

In June 2004 the DRC's power-sharing government marked its first anniversary, but there were no official celebrations. 2004 has been a tumultuous year for the DRC's transitional government (TNG). The international community continues to strongly support the DRC's move towards elections in 2005, but preparations and the implementation of reforms have been very slow and punctuated by political and military crises. The transitional government has held itself together despite two attempted coups d'états (in March and June 2004), and strong international and regional support will be required to ensure that the government remains in place until elections. Robust assistance by the international donor community, regional organisations and neighbouring states is also essential to ensure that the DRC's vast natural resource wealth is controlled and transparently managed for the DRC's sustained peace and development.

### Reforms

The TNG has been slow to implement reforms, constrained by the unwieldy power-sharing agreement that ensures that the government has representatives drawn from all major military and political groups. Neither the new constitution nor the planned new Investment Code have been drawn up. However, in June 2004 President Joseph Kabila signed a law governing the Independent Electoral Commission (IEC) tasking 21 members with moving the DRC towards elections.<sup>12</sup>

Although some efforts have been made to create the new integrated Armed Forces of the Democratic Republic of Congo, progress has been slow due to a lack of funds and unwillingness on the part of former rebels to dependably integrate – not least because they are unlikely to be adequately paid. In late June 2004 the law governing the organisation of the military was finally adopted.<sup>13</sup> According to this law, the head of government is the supreme commander over armed forces, but must consult with the Superior Defence Council (SDC) before taking key military decisions.<sup>14</sup>

The TNG appointed new provincial governors and military commanders for the DRC's 11 military zones in May. These appointments have been controversial. In



North Kivu key senior *Rassemblement Congolais pour la Démocratie-Goma* (RCD-Goma) allies retained leading positions, similarly indicating that RCD-Goma will continue to maintain a high degree of influence in Eastern DRC in the lead up to elections.<sup>15</sup> In Katanga, the province from which President Kabila's family and closest advisors originate, the appointment of a member of the former government as governor is a strong indication of the President's party plans to maintain control over the mineral-rich province.

### Spoiler elements

Political progress towards elections in DRC is also being hampered by so-called "spoiler elements" with nothing to gain from elections.<sup>16</sup> Congolese and non-Congolese spoilers manipulate already heightened political and ethnic tensions in Eastern DRC to contest the territorial reunification the TNG is attempting to create.<sup>17</sup> In particular, elements of the RCD-Goma are reported to strongly resist moves to reunification.<sup>18</sup>

The most notable recent example of the fragility of the security and political situation in the DRC was the crisis in the border city of Bukavu in May and June 2004.<sup>19</sup> On 26 May, Lieutenant Colonel Jule Mutebusi took over Bukavu with a force of several hundred men after the new transitional government army commander arrested one of Mutebusi's lieutenants. Mutebusi was then joined by General Nkunda and his force of several thousand armed men. Nkunda justified his actions by claiming that the Banyamulenge community in Bukavu risked genocide. Both Mutebusi and Nkunda were officers in the ANC, a group supposed to be part of the unified national army.<sup>20</sup> The violence caused over predominantly Congolese Tutsi 30,000 people to flee their homes into neighbouring Burundi and areas surrounding Bukavu.

Under international pressure, Mutebusi and Nkunda withdrew their forces from Bukavu on 25 June 2004, allowing DRC government forces to re-enter the city. However, this movement of DRC troops near Bukavu sparked Rwandan accusations of the DRC amassing troops in preparation of an invasion into Rwanda. In turn, the DRC accused Rwanda of supporting Nkunda and Mutebusi. Rwanda also closed its border to the DRC, and under pressure from African Union and international actors, and tensions between the states were momentarily dissolved.<sup>21</sup> However, the situation remains tense and the TNG periodically faces political crises.<sup>22</sup>

### MONUC

The TNG currently appears to be incapable and inadequately equipped to control security conditions throughout the DRC's territory. Equally, the UN Mission in the DRC (MONUC) has only 10,800 troops (a mere 600 of which in Bukavu) – well short of the number required to properly protect civilians and humanitarian workers under imminent threat of violence throughout a country three times the size of France. The UN Secretary General, Kofi Annan, recently called for the force in the DRC to be increased to 24,000 troops.<sup>23</sup> MONUC's failure to intervene in the capture of Bukavu led to violent protests throughout the DRC in June.

Neither MONUC, nor the Panel of Experts monitoring the arms embargo currently in place in DRC, have the mandate to look at the issue of how natural resources are continuing to be exploited in a way that provides funding and motivation for conflict. In July

2004, the Security Council reaffirmed the embargo, but made no changes to the Group of Experts' mandate.<sup>24</sup> This is so, despite natural resource control being a motivation for violence, as well as a source of funding for arms for insurgent groups.<sup>25</sup>

### Katanga's security situation

Throughout recent conflict, Katanga remained relatively unaffected by violent disturbances in Eastern DRC. However, the province appears to have become less stable in recent months. There are warning signs of impending security problems in Katanga, ranging from industrial action and social instability in Lubumbashi and the surrounding towns where unemployment has rocketed since the virtual collapse of Gécamines, to outbreaks of Mayi-Mayi (a militia group active in Eastern DRC) violence in Northern Katanga.

Examples of recent incidents include the Mayi-Mayi attack on the Upemba National Park in central Katanga in late May 2004.<sup>26</sup> Five park rangers and several women and children were killed in the attack. These attacks have, at times, moved dangerously close to mining areas. In February 2004 the mine operated by Anvil Mining in Dikulushi came under threat from Mayi-Mayi militia under control of General "Chinja-Chinja," rumoured to be paid by a senior government official. Close attention should be paid to patterns of attacks and troop movements that may threaten to create further instability in Katanga. This is especially important given the need to attract foreign investment in this province.

### Concerns for investors

Instability, coupled with widespread corruption throughout the DRC, is currently a major deterrent to foreign investment the country desperately needs. Understandably, many mining companies are unwilling to take the risks involved in starting operations in the DRC. As well as the risks associated with operating in a country with ongoing conflict in certain areas, many companies have been subjected to commercial uncertainty in the past by signing contracts with one government, only to have their contract cancelled when the leader is replaced.

Political instability is also of concern to investors. In a telling example, a delegation of approximately 100 potential investors from Belgium visited the DRC in early 2003. However, the delegation were disinclined to follow-up on opportunities, deterred by the political instability demonstrated by the arrest of the former Minister of Finance, Matungulu Ngayamu, without apparent reason.<sup>27</sup>

Many companies are reluctant to invest in a country where corruption is rife and bribes are demanded frequently by various authorities. Establishing a business in the DRC is slow, illustrated by Adastra Minerals (formerly American Mineral Fields) experience in Kolwezi. Feasibility studies for this huge copper and cobalt plant began in 1997, but production is not expected to begin until 2007.<sup>28</sup> Negotiations have been slow and difficult, but eventually this US\$300 million investment will hopefully pay off both for the company and the poverty-stricken town of Kolwezi.<sup>29</sup> However, many companies simply cannot afford to wait that long to start a project, and so turn their attention to countries other than the DRC. While mining projects generally take a considerable amount of time to develop, in the DRC projects take longer than most.

## 6 Mining in Katanga – an overview of the heterogenite trade

This section outlines the dynamics of the illicit trade in heterogenite – from mine to export. It begins by looking at the artisanal mining sector, and then the operation of trading houses that buy minerals from artisanal miners. The section then examines why the bulk of minerals exported from Katanga are in a raw (rather than processed) form. The section then looks at the lack of capacity of OFIDA, the DRC’s customs office.

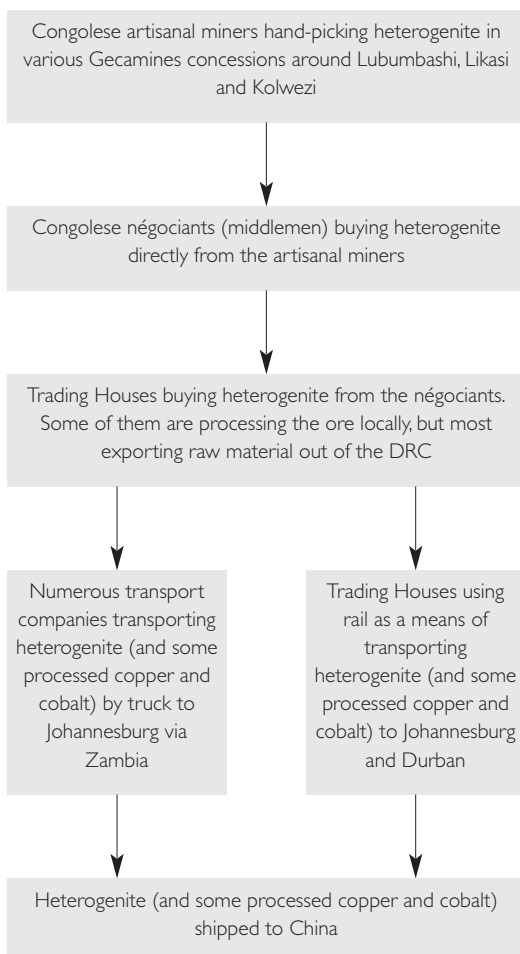
The following diagram provides a simple illustration of the trade discussed in this section.

### Artisanal Mining

Artisanal mining is a highly inefficient method of extracting copper and cobalt - industrial mining is a far more effective way of extracting these ores. In 1972, the African copperbelt was second only to the USA in terms of mine output but the DRC’s output has fallen dramatically since the 1990s with the collapse of industrial mining in Katanga.<sup>30</sup> With this decline of industrial mining came increased artisanal mining activity.

With the near-collapse of Gécamines in the 1990s and the reluctance of large mining companies to invest in Katanga, industrial mining has come to a virtual standstill. Gécamines, once a world leader in the production of copper and cobalt, began to decline in the late 1970s and through the 1980s. During this period Mobutu failed to re-invest in the plant, equipment and infrastructure at Gécamines mines. Levels of production of cobalt and copper plunged: in 1989 the DRC exported \$404 million of cobalt, but in 1995 exports fell to \$160 million. Since 1999, the copper and cobalt exported from the DRC has been mined artisanally on various Gécamines concessions around Lubumbashi, Kolwezi and Likasi that were once operated by the Congolese parastatal.

Figure 1: A diagram illustrating trade flows in heterogenite from Katanga



Miner entering a mineshaft, Kolwezi, DRC, May 2004.



Figure 2: A breakdown of artisanal miners utilised by three of the largest trading houses

Trading House	Contract workers	Daily workers	Total
Bazano	300	2100	2500
Chemaf	100	1500	1600
SOMIKA	350	450	800

The richest ores are currently being stripped away by handpicking (artisanal mining), thus endangering the future of open pit mines. Multinational mining companies looking to extract cobalt and copper are more likely to be attracted to mines where easy-to-access minerals on the surface are undisturbed. As more surface minerals are taken by artisanal mining, the more infrastructure, equipment and investment is required to extract minerals from well below the surface. This practice is known as “cherry-picking” – when the best ores are removed and the rest is rendered economically unfeasible to exploit.

Despite claims by the majority of companies in Katanga interviewed by Global Witness that they are processing within the DRC, there are only three or four functioning processing furnaces in southern Katanga. Few of these companies are said to be treating the ore in Lubumbashi, Likasi and Kolwezi. Those furnaces that are said to be working are doing so on a very low basis, producing approximately 30 or 40 tonnes per month of processed material.<sup>31</sup> This equates to a massive lost opportunity to add value and create jobs in the processing of minerals within Katanga. The province desperately needs investment by mining companies who wish to re-start industrial mining in the area and process the ore locally.

Around 60,000 young men and boys (as young as seven) are working as artisanal miners in southern Katanga.<sup>32</sup> However, the artisanal mining cannot be classed as ‘steady employment’ as the vast majority of these miners work as casual daily labour, as illustrated by the employment statistics in Figure 2 above from three of the largest trading houses.<sup>33</sup>

Young boys are used to carry the heavy bags of ore out of the mineshafts, as they are small enough to get through the networks of passages and tunnels. The miners work in dangerous conditions, with no safety or security measures implemented in these mines, through lack of alternative employment or income. Many have left school, dropped out of university or abandoned agriculture to join the ‘cobalt rush.’ An artisanal miner earns anything from a few dollars per day up to US\$40, depending on the grade of the ore (which can vary from 1% up to 13%, in exceptionally rich areas) and which buyer they are selling to. The miners spend around twelve hours a day digging and bagging up the ore, before selling it onto *négociants* who serve as middlemen between the diggers and the trading houses.

### Trading houses

New trading houses have opened up over the past few years to cash in on the artisanal mining and high cobalt prices and there are now said to be over three hundred operating in Katanga.<sup>34</sup> Until October 2003, trading houses were buying ore extracted from Gécamines sites without paying fees to concession owners.<sup>35</sup> However, after intense negotiations three of

the largest trading house companies operating in Southern Katanga – Groupe Bazano (run by a Lebanese, Alex Bazano), Chemicals of Africa (Chemaf; an Indian company) and Société Minière du Katanga (SOMIKA; owned by Chug Chetanga Prakash, based in Canada<sup>36</sup>) – have finally entered into a contract with Gécamines to operate in these concessions.<sup>37</sup> The deals mean a 50/50 profit share between the private company and Gécamines for all ore extracted on these sites, providing a much needed source of income for the bankrupt parastatal. According to a senior Gécamines official, these deals provide Gécamines with income of between US\$700,000 and US\$1 million per month.<sup>38</sup> However, other trading companies continue to trade in heterogenite without entering into contract with Gécamines.<sup>39</sup>

Trading houses are currently making huge profits from the heterogenite trade. For example, if an artisanal miner is earning around US\$60 per tonne (for 5-10% grade cobalt), the companies are paying the middlemen anything between US\$160 and US\$600 for this same tonne (depending on the exact grade) and the price of cobalt on the world market is now US\$25 per pound, making it US\$55,100 per tonne, then even allowing for high transport costs in central Africa and the costs of processing, these trading houses are doing extremely well from this trade.

### Lack of processing of ore

Despite a decree being passed in January 2003 declaring that all copper and cobalt must be processed before leaving the DRC, the majority of minerals leaving Katanga are being exported in the raw form as heterogenite. A senior Ministry of Mines official explained that the decree had been “on hold” as they could not enforce it without providing those involved in the sector with an alternative means of income.<sup>40</sup> This means, however, that there is an enormous loss of value to the DRC economy as the real value is being added to the minerals, through processing, outside the DRC. In addition to this, it means that the Congolese government does not actually know the precise grade or quantity of what is being exported from Katanga in the raw form of heterogenite.

### No oversight: no clear statistics

There is very little official data available on the artisanal production of heterogenite in Katanga. The Ministry of Mines has begun to publish export certificates on its website which is a promising sign of some increase in transparency.<sup>41</sup> However, the site is not comprehensive in its publication of export certificates – there is only a haphazard collection of certificates gathered over one day periods presented.<sup>42</sup> At the time of writing, there were certificates posted on the Ministry of Mines site for 26 and 29 December 2003, 6, 17 and 20 February 2004, 31 March 2004, 30 April 2004, 5, 13, 14 and 27 May, 1 June 2004 and 30 July 2004.

A senior Ministry of Mines representative in Lubumbashi was unable to provide Global Witness with any statistics on the scale of the trade in Katanga.<sup>43</sup> At the Ministry of Mines office in Kinshasa, Global Witness was told that statistics on





**Artisanal mine, Kolwezi, DRC, May 2004.**

the export of heterogenite from Katanga are not collected. While some information is filtering back to the Ministry from Alex Stewart International Corporation (the company appointed to assay (analyse) minerals exported from the DRC), this does not present a coherent picture of the quantities of minerals being exported and Alex Stewart International Corporation (ASIC) does not analyse all heterogenite being taken from the DRC. Instead, the Ministry of Mines advised Global Witness to approach the customs office for statistics or to look at import figures for China in order to get an idea of quantities leaving the DRC.<sup>44</sup>

Statistics independently gathered at Kasumbalesa revealed that for a period of seven days (12 to 19 July 2004), official (registered) exports by road totalled 1,000 tonnes of cobalt concentrate and 2,430 tonnes of copper concentrate – amounting to around 13,720 tonnes per month.<sup>45</sup> As processing costs must be taken into account, it is difficult to estimate the actual value of these exports on the world market, but with cobalt prices currently at US\$55,100 per tonne, this certainly amounts to a huge amount of money.

However, Global Witness interviews with transport workers, mining officials and customs officials in Katanga reveal that the majority of heterogenite leaves the DRC without being registered and is unaccompanied by assayer analysis of the grade of minerals being exported. This unanalysed and unregistered heterogenite is exported illicitly in large quantities. As such, the above figures for one week in July 2004 are likely to represent only a small proportion of the volume of cobalt and copper concentrates being exported.

Anecdotal evidence suggests that the volume of the illicit trade in heterogenite is huge, and has increased dramatically in the past 12 months as more companies have begun to take advantage of high cobalt prices. The vast majority of the cobalt and copper output is now being extracted and handled by private companies as opposed to by the parastatal Gécamines. As these production figures are not yet represented in the current national output statistics, it

is difficult to get a true sense of the trade's scale.<sup>46</sup>

Corruption in Katanga is widespread and includes demands for bribes by the police, security services, border guards and other officials. Extensive corruption and smuggling activities mean that huge numbers of trucks carrying heterogenite cross the border into Zambia at Kasumbalesa daily. A senior Ministry of Mines official in Kinshasa told Global Witness that although the Ministry have been fighting against smuggling, the recent increase in international cobalt prices has made this very difficult.<sup>47</sup>

Estimates of the extent of the leakage can only be compiled from literally counting the number of trains and trucks being transported to Zambia. A Katangan mining expert, who has been based in Lubumbashi for 3 years, calculated that approximately 60,000 tonnes of heterogenite leaves the DRC per month, during the dry season.<sup>48</sup> (Production is substantially reduced during the wet season, when only the ores located near the surface can be easily mined.) This figure has also been backed up through visits to the border made between May and July 2004.

A well-placed source involved in the trade in Katanga suggested that some of the more overloaded trucks of heterogenite are worth in excess of \$100,000.<sup>49</sup> On a Global Witness visit to Kasumbalesa on the DRC-Zambian border, at least 40 trucks were spotted queuing up at the border by 1500 hours, waiting to cross that evening. One transport company alone, SABOT, had at least 5 large trucks of heterogenite at the border, which they were taking to sell in Kitwe (in Zambia).

However, without knowing the mineral composition of the heterogenite being exported illicitly, it is difficult to accurately determine the value of minerals and the loss of revenue to the Congolese state. As an example of how confused the true picture of trade in cobalt and copper is, the following table illustrates the huge discrepancies between trade in cobalt recorded by the Central Bank of Congo, OFIDA (the customs office), and the recorded exports of cobalt by the recipient of the bulk of the DRC's cobalt – China. (Figures are in tonnes.)

Month of 2004	China declared cobalt concentrate imports from DRC <sup>50</sup>	Central Bank published DRC cobalt production <sup>51</sup>	OFIDA recorded exports of cobalt & cobalt concentrates <sup>52</sup>
January	2,219	675	14,488
February	3,738	668	7050
March	10,707	783	13,365
April	9,110	801	7882
May	8,753	219	N/a

There are glaring discrepancies between each set of figures, calling into question the methodology of statistical collection. This is partly due to a lack of technical capacity (see discussion on OFIDA, below), and also because the Central Bank does not capture production figures for private mines. However, it is also an example of how opaque natural resource management may cover up a huge loss of revenue to the DRC state.

### DRC's Customs Office (L'Office des Douanes et Accises – OFIDA)

One of the key problems facing Katanga is the lack of control over the customs authorities at Kasumbalesa. Like many working within the Congolese civil service, employees of OFIDA irregularly receive low pay. In the absence of a reliable salary and in need of training, the customs officials at the border have little incentive to do their jobs well and follow the rules. The authorities are therefore an easy target for bribery and corruption and are currently colluding with companies to allow the transport of unprocessed heterogenite across the border. Interviews with truck drivers at the border revealed that customs officials are allowing loads to pass into Zambia with fake certificates – or without a certificate at all – so the quantity and quality of the material leaving the country is being grossly misrepresented. Trucks come up from Zambia as far as “no man’s land” at Kasumbalesa (the area of land of approximately one square kilometre lying between the DRC and Zambian border). These trucks are then loaded at night and provided with false papers for export.<sup>53</sup>

Corruption and lack of capacity within OFIDA are problems clearly identified by the international financial institutions and other parts of the donor community. However, until there is a concerted effort to reform OFIDA and until the officials start being paid a reasonable salary on a regular basis, weak border controls at Kasumbalesa will continue to undermine the DRC’s ability to benefit from the vast resource wealth in Katanga. Any reform programme would constitute a long term plan and could not be successfully implemented in isolation – other departments of the government and civil service would also need to be reformed in order for any progress to be achieved. In particular, better control would have to be exerted over the military to prevent incidents of armed forces holding up customs offices, which have occurred recently even in Kinshasa.<sup>54</sup>

In May 2004 the Crown Agents, a consultancy working on capacity-building and institutional development, conducted a 3-week high-level review of OFIDA. This review involved visits to Kinshasa, Lubumbashi and Matadi and the purpose of this visit

was to examine the key issues that would need to be addressed in a reform programme. Weaknesses were identified everywhere and include a lack of capacity, over-staffing, under-management and under-valuation of goods on a phenomenal scale.<sup>55</sup> According to the Crown Agents, this under-valuation is the biggest source of revenue loss currently facing the DRC.

OFIDA have plans to move the customs office in Kasumbalesa 10km away from its current location, in an attempt to escape the chaos of the border<sup>56</sup>. Plans are also being developed to build a large warehouse at Kasumbalesa, capable of holding up to 40 trucks, so that they could check goods entering and leaving the country.<sup>57</sup>

OFIDA provided Global Witness with the official export statistics from January to June 2004 but warned that as they did not have the equipment required to verify the quality and quantity of ore at the border, the only information they have is from the companies themselves. According to OFIDA, misrepresentation is widespread and many of these companies under-value their exports.<sup>58</sup>

### Assaying issues

The Congolese subsidiary of British-based Alex Stewart International Corporation (ASIC), known locally as Alex Stewart Government Business Group, was appointed on 24 February 2004 by Mr Ndongala (Minister of Mines) as agents of the government to certify the quality and quantity of mineral exports. All minerals exported from the DRC are required to be accompanied by a government-approved certificate issued by ASIC. While companies are free to have their minerals analysed by other commercial assayers, it is ASIC’s role as the government’s agents to confirm that exports correspond with exporter’s declarations. The majority of minerals exported from the DRC are transported through Zambia into South Africa. A proportion of these minerals are assayed by Alex Stewart at their Johannesburg office at the request of international mineral buyers.

One company complained to Global Witness that it found ASIC prices for issuing certificates to be high.<sup>59</sup> The Lubumbashi office of ASIC charges US\$20 per tonne for analysis, as opposed to the US\$8 per tonne that their Johannesburg office charges. ASIC maintain the price differential is due, amongst other things, to higher running costs in the DRC.<sup>60</sup> The high prices ASIC charge in the DRC may deter companies and trading houses from complying with the requirement of having minerals certified before export. This suggests that the system established by the DRC government may be failing to provide full oversight of the trade in heterogenite.

In fact, this is borne out by claims by the ASIC office in Johannesburg that as much as 95% of the



**Truck transporting artisanal miners and heterogenite, Lubumbashi, DRC, May 2004.**

heterogenite they receive arrives without a certificate from their partner office in Lubumbashi, and those certificates that do accompany the trucks are usually forged.<sup>62</sup> This indicates that companies are forging the requisite certificates themselves rather than paying ASIC for them in Lubumbashi.

### Transportation

A number of transport companies are involved in carrying the heterogenite by truck down to Zambia (where some of the ore is processed) and then onto Johannesburg and Durban. From South Africa, the vast majority of Congolese ore is being shipped to China, where there is currently an enormous demand for cobalt (see Section 10, Where does it all go? International trade statistics). In addition to the hundreds of trucks that are crossing the border at Kasumbalesa every day, a huge amount of heterogenite is also being transported by train from Katanga down to South Africa. Particularly in Kolwezi, around which the roads are extremely poor, the companies are increasingly dependant on rail transportation of ore. From Kolwezi train station between 2,000 and 3,000 tonnes per week of heterogenite are heading south to Johannesburg, with the larger companies, Bazano and Chemaf, transporting between 500 and 1,000 tons of this each.<sup>63</sup> This of course does not include the loads that are travelling by train from Likasi and Lubumbashi. Research conducted in July 2004 at Mokambo, the rail crossing between the DRC and Zambia, revealed that around 10,000 tonnes of heterogenite are transported from the DRC to Zambia per month.

*Box 1: Chemaf price list (current prices paid to négociants)*

Grade of ore	Prices (USD)
4%	\$60
5%	\$160
6%	\$200
7%	\$450
8%	\$500
9%	\$550
10%	\$600

N.B. Prices provided by Associations D'Exploitants Miniers Artisanaux Du Katanga (EMAK), May 2004.

### Summary

Problems of lack of oversight and control are evident at every stage of the heterogenite trade in Katanga – from mine to point of export. If the illicit trade is to be controlled, then the DRC government with international assistance must increase the capacity of officials in Katanga (at OFIDA or the Ministry of Mines) to implement effective controls.

The following section uses the case of the notorious Shinkolobwe mine as a case study of how artisanal mining can go terribly wrong without oversight.



## 7 Case-study on artisanal mining: Shinkolobwe mine

The Shinkolobwe mine (also known as the Kasolo mine) in the Kambove territory of Katanga is perhaps the most striking example of how the hasty extraction of heterogenite is extremely dangerous for artisanal miners. Shinkolobwe is also a stark example of why the international community and the DRC government must immediately support and implement basic environmental, health, security, legal and customs controls over the trade in heterogenite in Katanga.

Shinkolobwe was the source of the uranium used in the Hiroshima and Nagasaki bombs in 1945. The mine was flooded in 1956 by the Belgian government, and was kept under guard by the Zairian armed forces until 1997.<sup>64</sup> Although the mine has been officially closed since 1960 when Belgian authorities filled the two major uranium shafts with concrete, heterogenite containing uranium has been extracted from Shinkolobwe since 1998.<sup>65</sup> Wide scale artisanal mining continues despite the presence of the concrete.<sup>66</sup> Under pressure from the United States to close the mine, President Joseph Kabila announced that he had forbidden access to the mine in February 2004.<sup>67</sup> However mining activities have continued unabated.

Global Witness interviews with artisanal miners working at the mine revealed that hundreds of miners now work under the sections of the mine sealed off by concrete.<sup>68</sup> This is so despite the presence of Agence Nationale Renseignements (ANR) and members of the Presidential Guard at the site. There are also reports that members of the DRC security services profit from the exploitation of minerals at this officially dormant mine, with eyewitness accounts of officials purchasing heterogenite from the artisanal miners at Shinkolobwe.<sup>69</sup>

The estimates of the numbers of artisanal miners working at Shinkolobwe range from 7,000 to over 13,000.<sup>70</sup> Irrespective of the precise number of workers at the mine, all artisanal miners work under exceedingly dangerous conditions at Shinkolobwe.<sup>71</sup> Miners, including children as young as 7, dig without any safety equipment in hand-built deep mineshafts – some reported to be as long as 320 feet deep.<sup>72</sup> Some remain underground stripped to the waist for up to 24 hours at a time.<sup>73</sup>

The danger faced by artisanal miners at the Shinkolobwe mine was proven on 9 July 2004, when two deep mineshafts at the mine collapsed.<sup>74</sup> The collapse caused the deaths of at least 9 miners, with a further 15 survivors managing to dig themselves out of the shafts. Shortly after the collapse, several envoys went to Shinkolobwe to investigate the mine collapse. A MONUC mission attempted to gain access to the accident site at the same time as delegations from the President's Office and the National Atomic Energy Agency. The MONUC mission was denied access to the area where the mine collapsed by local authorities, and was instead taken to a separate area of the mine. This absence of transparency surrounding the management, operation and oversight of mining operations at Shinkolobwe raises questions about the DRC government's commitment to transparency and addressing appalling working conditions faced by artisanal miners.

As is the case with other heterogenite mines in Katanga, quantities of minerals being extracted from Shinkolobwe are unknown as there is little or no analysis of the minerals taken from the mine before export. Global Witness obtained an independent analysis of a one kilo sample of heterogenite taken from an area of Shinkolobwe mine tailings – a part of the mine where extraction of minerals is legally permitted. The analysis revealed that the small sample of tailings soil was rich in minerals: it contained 0.3% uranium, in addition to the 7.82% cobalt, 12.65% iron, 2.84% copper, 1.76% nickel and traces of eleven other minerals. Analysts told Global Witness that analysis was difficult and time consuming as it was one of the most complex samples they have ever worked on.

The precise composition of the heterogenite found beneath the concrete section of Shinkolobwe is unknown. However, artisanal miners working at the site reported that they were directed by middlemen to dig from beneath the sealed concrete section of the mine as that area contained higher-grade heterogenite (and possibly higher grade uranium).<sup>75</sup>

In March 2004, in response to reports of illegal mining activities at Shinkolobwe, the International Atomic Energy Agency (IAEA) described the possibility that large quantities of uranium were being mined and exported as “disturbing.”<sup>76</sup> Pursuant to a safeguards agreement and an Additional Protocol agreement signed by the DRC government on 9 April 2003, the DRC is obliged to report its uranium mining activities as well as its exports of uranium.<sup>77</sup> After reports of illegal exploitation of natural resources and the illicit trafficking of nuclear materials, the IAEA conducted a safeguards inspection of the Shinkolobwe mine. At the time of writing, the results of the inspection were still being analysed by the IAEA.<sup>78</sup>

Experts working on Katanga have suggested that that uranium mined at Shinkolobwe is of a very high grade of enrichment, and Geiger counter measurements taken at the mine indicate high levels of radioactivity.<sup>79</sup> High levels of radiation endanger the lives of miners and their families living and working on the Shinkolobwe site, putting them at risk of developing cancers, sterility and causing birth defects. Further, it has been suggested that it is likely that Shinkolobwe is not the only mine in Katanga containing radioactive material.<sup>80</sup> Despite these worrying indications that radioactive material is being extracted and exported with a minimum of oversight from Katanga, the United States in March 2004 said that it did not believe there was “worrisome movement” of radioactive mineral ore from Shinkolobwe.<sup>81</sup>

Under the safeguard and Additional Protocol agreement with the IAEA, the DRC government has the responsibility to undertake necessary safety and security measures to ensure adequate protection of nuclear and radioactive material.<sup>82</sup> The fulfilment of this responsibility is made more urgent by the threat of nuclear and radioactive materials being used in international terrorist attacks. Experts disagree over whether the uranium from Shinkolobwe could be used in a “dirty bomb.” However, the current abysmal lack of oversight and control of mining activities at Shinkolobwe (and other mines throughout Katanga) makes natural resource governance in Katanga a pressing environmental and safety issue.<sup>83</sup> Unless there is effective oversight over the mining and export of heterogenite from DRC, activities at Shinkolobwe will continue to endanger the lives of artisanal miners, and potentially pose a security threat to the international community.

## 8 (Non-)Application of the Mining Code

**T**HE NEW MINING CODE (Law No. 007/2002 of 11 July 2002) is designed primarily to attract desperately needed new foreign investors by providing solid legal parameters and rules governing the prospecting, exploration, processing and sale of the DRC's minerals. The Code also sets down regulations for artisanal exploitation of minerals.<sup>84</sup> This section contrasts a few of the Code's key provisions against the reality of mining activities and the capacity of the Ministry of Mines to enforce law in Katanga. The World Bank, however, have admitted that the impact of the Mining Code on the ground in Katanga will be limited at this stage as on-going activity is not regulated.<sup>85</sup>

As Katanga remained under the control of the central government throughout the 1998 – 2002 conflict, theoretically it should be one of the easier provinces in which to apply the Mining Code. However, Global Witness observed that implementation in Katanga has proven far harder than perhaps anticipated by people drawing up the regulation in Washington and Kinshasa. Failures to implement the Mining Code in the copper and cobalt sector are readily identifiable.

### The Role of the DRC Government

According to Article 8, the State is tasked with promoting and regulating the development of the mining sector by the private sector. Under Article 9, through issuing Decrees the President has the power to declare, classify or declassify mineral substances. The Minister of Mines is given power to grant mining rights, authorize the export of unprocessed ores, as well as granting approval for traders in artisanal exploited products and other powers under Article 10. The main responsibility for the lack of implementation of the Code to date lies with the Minister of Mines, as well as the President of the DRC.

### Directorate of Mines responsibilities

According to Article 14 of the Code, the Directorate of Mines is responsible for inspecting and supervising mining activities with regard to safety, health, transport and sale as well as other matters. Global Witness asked personnel at the Directorate in Lubumbashi for reports and examples of inspections and supervisions carried out in accordance with Article 14.<sup>86</sup> No examples or reports were provided to Global Witness, nor was there any indication that inspections have been carried out since the Code came into force.

The Directorate is also responsible under Article 14 for compiling and publishing statistics and information on the production and sale of mine products. Again, personnel at the Directorate interviewed by Global Witness were unable to provide any statistics on production.<sup>87</sup>

### Artisanal Mining

Under Article 26, only Congolese individuals “of age” may obtain the artisanal miners’ cards. This suggests that children do not qualify to apply for artisanal mining rights despite the fact that currently hundreds of children work as artisanal miners in Katanga.

Article 111 states that “only the holders of artisanal miners’ cards which are valid for the area concerned are authorised to extract gold, diamonds, or any other mineral substance which can be mined artisanally.” However, the Lubumbashi Ministry of Mines admitted that not all the miners working in Katanga possessed mining cards. None of the artisanal miners interviewed by Global Witness owned the requisite cards.<sup>88</sup>

### Shinkolobwe

Article 27 states that all government officials, members of the Armed Forces, the Police and the Security Services are not allowed to engage in artisanal mining or trading. A number of sources have reported that the members of the Presidential Guard at Shinkolobwe have been seen buying heterogenite from the artisanal miners. These personnel are therefore involved in buying and selling minerals in direct contravention of Article 27.

Articles 207, 208 and 209 cover matters related to safety and health at mines. The Mines Administration is tasked to issue decrees that will be developed to prevent or remove the causes of dangers to public safety and health. Article 209 stipulates that any serious or fatal accident in a mine must be immediately notified to the Mines Directorate and other authorities. After the collapse of the Shinkolobwe mine in July 2004, it appears that the Mines Directorate and local authorities were immediately notified. However, the Mines Administration has been slow to act on its express power to investigate any potential breaches of Code provisions in order to “remove dangers” at Shinkolobwe.<sup>89</sup>

### Minerals sale and export

Under Article 85 the Minister's authorisation is required for the exportation of unprocessed ores. Authorisation can only be granted where it is impossible to treat the substances within the DRC at an economically viable cost, and there are advantages for the DRC if the substance is exported. Currently, the vast majority of heterogenite minerals exported from Katanga are unprocessed. Ministry of Mines officials in the DRC confirmed to Global Witness that they have not tried to enforce Article 85, as there is little capacity to process ores within the DRC at present.<sup>90</sup>

### Provisions detrimental to local economies

The Mining Code contains provisions that may cause mining activities to be detrimental to the local economy. For example, in order to encourage investment in the country, the Code under Article 232 allows companies to import a range of goods (such as fuel, batteries and consumer goods) at preferential low import duties for the duration of the mining project. Although this makes it easier for companies to set up a business in the DRC, some have taken advantage of this and are importing much greater quantities than they could possibly use—they have then started to pay suppliers in fuel. Local traders are unable to compete and are losing business.<sup>91</sup>

### Summary

The 2002 Mining Code is considered by most trading houses and companies interviewed by Global Witness to be a positive development for the mining sector. However, all stated that implementation was very slow and that negotiations with the Congolese authorities remained an on-going struggle. Many companies complained that the Ministry of Mines was selectively applying the Code, choosing to

implement certain aspects of the regulation whilst ignoring others, and creating add-ons that are not in the law. For example, Groupe Bazano claimed that the 1% tax that they are required to pay, as outlined in the Code, is demanded by so many different departments and ministries that they can end up paying up to 40% in taxes.<sup>92</sup>

In order for the Code to achieve its primary aim of encouraging foreign investment into the sector, a great deal needs to be done to effectively implement the Code's provisions. The Mines Directorate, the Mines Administration and the Ministry Mines as a whole lack the capacity to adequately implement the Code. It is absolutely essential that this enforcement deficit be urgently addressed to ensure the value of Katanga's mineral wealth is captured according to law, and that the conditions of work for thousands of artisanal miners are improved.

In addition to the estimated enormous losses to the central government through the lack of implementation of the Mining Code, illicit trade also has an adverse impact on local economies. The following section looks at the adverse impact of mining and export of heterogenite in Katanga on the local population and environment.

## 9 Local impact of the heterogenite trade

**T**HE BOOMING heterogenite trade is not benefiting the majority of Katangans. Given that the Congolese miners are paid very little for their hard labour and there is little by way of government public services, southern Katanga is not benefiting from this trade. The area has very high unemployment, virtually no public services and poor transport infrastructure.

### Poverty, unemployment and the paradox of plenty at a micro-level

Lubumbashi and Likasi are both deprived, but the situation in Kolwezi is desperate. Despite being surrounded by numerous mines, what used to be a holiday destination in colonial times now has a population of 320,000 and only four shops, severely damaged roads and extremely levels of high unemployment. Access to Kolwezi is almost entirely restricted to train or small plane as the roads leading out of the town are in great need of repair. In addition, the area suffers from an almost complete

lack of agricultural projects or farming activities. In many cases people have abandoned agriculture in favour of artisanal mining. The poor infrastructure in the province also discourages the local population from engaging in agricultural activity, as the transport of goods is expensive and enormously time-consuming.

The result is a colossal contrast between the booming heterogenite trade and an area with a desperate population. Katanga was once the “jewel in the Congo's crown,” but has dramatically deteriorated over the past ten years. The collapse of Gécamines meant a rise in unemployment in the region, and also resulted in the closure of many schools and hospitals originally provided by the company for families of employees. Schools in the area lack funds to pay teaching staff and provide necessary equipment and the hospitals in and around Lubumbashi are now suffering from a serious supply shortage. A “brain drain” from the area has meant many of the doctors and professionals from Katanga have gone elsewhere in search of employment opportunities.

Shituru factory, Likasi, DRC, May 2004.





Through lack of alternative employment opportunities, increasing numbers of young men and boys have turned to artisanally mining heterogenite since 1999. The miners Global Witness interviewed repeatedly expressed fear of working in the dangerous conditions. They are acutely aware of the risks they took on a daily basis – they work in holes with no reinforcement and wearing no protective clothing. The miners also lack the economic security of working for a company and their income is extremely dependent on price changes. A number of miners complained that prices they were paid had fallen over the past year, in spite of increasing cobalt prices on the world market. All miners interviewed felt that they were being cheated by the middlemen and companies in terms of the grade they were told their ore contained, as they had no means of independently testing the ore they are digging. These miners said that they would much rather find employment in a mining company and thus be guaranteed some security and safety measures, even if this meant taking a reduction in wage.<sup>93</sup>

### **Ex-Gécamines workers**

As part of the World Bank-sponsored Gécamines restructuring programme, 10,500 employees (around half the company's workforce) have now left the company, receiving voluntary redundancy pay-offs ranging from US\$1,900, up to \$30,000 for the most senior managers. However, these redundancies have proved to be extremely controversial, not least because many of the employees had already worked for two years without pay before the pay-offs came. The package fails to acknowledge the role that Gécamines played in Katanga – ex-employees have received lump sum pay-offs, but they now have no social protection, as they previously relied on Gécamines for education, healthcare and other social provisions.

Visits to various Gécamines offices and factories revealed that there are still huge numbers of staff turning up to work on a daily basis even though they have not been paid for up to three years. Particularly striking was the case of the Sodimico mine and factory near Kasumbalesa where, despite the closure of the

mine in 2001 due to flooding and a lack of investment, 2,500 of the 3,000 staff originally employed still arrive at work every day. The younger men left to seek employment elsewhere, but the vast majority have stayed on, without pay, through lack of alternatives and in the hope that when an investor comes onboard to re-open the project they will be able to keep their jobs.<sup>94</sup>

### **Environmental effects**

This bleak social and economic picture is compounded by increasingly serious environmental problems. Many civil society groups in the area complain about high levels of pollution, as the factories that are treating minerals locally are processing without any kind of environmental controls.

There is little or no evidence of companies taking the welfare of the local population into consideration when setting up processing plants. This is particularly evident in Likasi, where acid smoke is released from Shituru, a Gécamines factory situated above the town<sup>95</sup>. This pollution is said to be worsened by old pipes in the factory that are in need of repairing. The local population claimed to be suffering from increased illnesses and respiratory problems, and Global Witness staff experienced choking, stinging and watering eyes whilst in the area around Shituru<sup>96</sup>. A lack of control means that ore from Shinkolobwe is treated in Likasi, causing concern amongst civil society groups that radioactive materials are being treated on their doorstep.

A similar situation can be seen in Lubumbashi, where people have complained about a large factory located in the heart of the city, and fear that radioactive materials from Shinkolobwe are being treated there<sup>97</sup>. In addition to high pollution and dust levels in these towns, the local population have expressed serious concern about water pollution in the region. A factory processing minerals has been installed on the Kipushi Road, on a site where the local water company are treating the water used by around 70% of the population of Lubumbashi. People fear their drinking water is becoming contaminated.<sup>98</sup> Local NGOs have complained to the government about this issue, but no action has yet been taken to address the situation.

**Young boys sieving heterogenite, Kolwezi, DRC, May 2004.**



## 10 Where does it all go? International trade statistics

**T**HIS SECTION PROVIDES a summary of the statistics for trade in the mineral and metal commodities exported by the DRC. Global Witness has researched international trade statistics covering the main minerals contained in heterogenite (cobalt and copper as well as zinc and nickel) to sketch a regional and global trade picture and trends for these commodities since 2001. In particular, focus was placed on major recipients of the DRC's heterogenite: China and South Africa. Also examined were the trade statistics from the DRC's neighbours, including countries situated along the trade routes from Katanga.

At the time of writing, trade statistics for exports and imports from DRC, Tanzania, Zambia and Zimbabwe were not available for 2003 or 2004. However, Global Witness has obtained trade statistics provided by DRC customs office (see Section 6, DRC's Customs Office (L'Office des Douanes et Accises – OFIDA), page 12). Trade statistics for South Africa and China for 2003 and 2004 (to date) are available, and will be examined in this section.

### China

China is clearly a leading consumer of minerals and metals (raw and processed) originating from the copper belt. China's imports of cobalt and copper commodities are on a rising trend, driven by demand for materials for rechargeable batteries used in mobile telephones.

China is the main recipient of DRC's cobalt, and imports from the DRC have grown strongly since 2001, with a particular rise in 2004. As illustrated by Table 1 (below) the DRC is currently China's leading supplier of cobalt ores. These figures do not take into account the possibility that some of the cobalt ores imported by China from South Africa or Congo (Brazzaville) may have originated from the DRC.

Table 1: China's imports (by supplying country)

Commodity: HS code 2605 – “cobalt ores and concentrates”

thousand tonne	1996	1997	1998	1999	2000	2001	2002	2003
Total	5	0	3	8	16	29	41	84
Congo, Dem. Rep.	0	0				8	15	39
Congo				0	1	4	10	28
South Africa	0	0	0	2	10	5	5	6
Cuba	0					5	7	5
Australia				0	1	1	2	2
Zambia					1	1	3	
United States		0	0	0	2	1	0	1
Morocco	5		2	3		3	0	
Others	5	0	3	5	3	5	1	3
US\$ million	1996	1997	1998	1999	2000	2001	2002	2003
Total	17	1	8	10	16	32	34	68
Congo, Dem. Rep.	0				0	4	8	24
Congo				0	5	3	7	21
South Africa	0	0	1	2	5	5	2	6
Cuba	0					9	10	10
Australia				1	2	3	5	5
Zambia					1	1	1	
United States		0	0	0	2	1	0	1
Morocco	17		7	4		4	0	
Others					3	7	1	2

Source: World Trade Atlas



**Truck in Johannesburg loaded with heterogenite from the DRC, May 2004.**

Table 2 (below) illustrates the rising trend and high levels of China's imports of cobalt ores and concentrates from the DRC. In 2003 China imported almost 39,000 tonnes of cobalt ores from the DRC at a c.i.f. (import value) of approximately \$24,118,000.<sup>99</sup> In the first five months of 2004 alone China has imported almost 22,000 tonnes, with a c.i.f value of over US\$35,481,000. This is a stark illustration of the enormous revenues that could potentially be captured by the DRC but which are being lost due to an appalling lack of oversight of mining operations and revenue streams in the DRC.

As shown in Table 3 (below) in 2002 China imported a total of 656 tonnes of copper ore from the DRC. In 2002 imports of this commodity rose dramatically to an annual total of 4,760 tonnes in 2003, with a noticeable rise in imports from September 2003. In January 2004 alone, China imported 1,850 tonnes of DRC copper ores and concentrates. If the current strong demand for copper continues, it is possible that China's imports of cobalt ores from DRC will continue to be high in 2004.

China's imports of "copper ores and concentrates" from Congo Brazzaville, DRC, South Africa and Tanzania rose strongly in 2003 and to date in 2004. However, together, these supplies account for only a small proportion of China's imports of this commodity.

*Table 2: China imports from DRC*

**Commodity: HS Code 2605 – "cobalt ores and concentrates"**

<b>2002</b>	<b>Jan</b>	<b>Feb</b>	<b>March</b>	<b>April</b>	<b>May</b>	<b>June</b>	<b>July</b>	<b>Aug</b>	<b>Sept</b>	<b>Oct</b>	<b>Nov</b>	<b>Dec</b>	<b>Total</b>
US\$ '000	739	679		1,370	247	602	159	462	193	1,349	402	1,393	7,595
Tonne	703	1,153		2,587	658	1,301	253	1,153	635	2,680	701	2,862	14,686
<b>2003</b>													
US\$ '000	2,233	1,111	1,917	2,361	2,632	1,725	1,023	1,725	3,187	2,066	1,883	2,255	24,118
Tonne	4,786	1,932	4,002	3,405	3,992	2,892	1,494	2,785	4,330	2,656	2,418	3,940	38,632
<b>2004</b>													
US\$ '000	2,168	4,743	10,707	9,110	8,753								
Tonne	2,219	3,738	6,191	5,327	4,324								

Source: World Trade Atlas

*Table 3: China – imports from DRC*

**Commodity: HS code 2603 – "copper ores and concentrates"**

<b>2002</b>	<b>Jan</b>	<b>Feb</b>	<b>March</b>	<b>April</b>	<b>May</b>	<b>June</b>	<b>July</b>	<b>Aug</b>	<b>Sept</b>	<b>Oct</b>	<b>Nov</b>	<b>Dec</b>	<b>Total</b>
US\$ '000						83				44		48	175
tonne						252				142		262	656
<b>2003</b>													
US\$ '000		38					183		851	575	248	405	2,300
tonne		144					363		1,799	1,108	424	922	4,760
<b>2004</b>													
US\$ '000	1,053		32	31	137								
tonne	1,850		82	78	140								

Source: World Trade Atlas

## South Africa

As outlined in section 6, the majority of minerals and metals extracted from Katanga's mines are transported south through Zambia and then down to South Africa. It is thus important to analyse South Africa's declared imports of cobalt ores and concentrates (and other minerals such as zinc found in heterogenite) from the DRC, as well as examining where these commodities may be destined beyond South Africa.

Table 4 (below) shows a rising trend in South Africa's imports of cobalt ores and concentrates from the DRC. In 2002 South Africa imported a total of 4,457 tonnes of the commodity from the DRC. The following year imports rose to 5,027, with a noticeable rise in imports in October 2003. In first quarter of 2004, imports remained high at 1028 tonnes for January 2004 and a further 1783 tonnes in February.

There is also a rising trend in South Africa's imports of "zinc dust" from the DRC. As Table 5 indicates, in 2003 this amounted to approximately 4,000 tonnes, with a further 2,266 tonnes being imported in the first three months of 2004 alone. South Africa is China's biggest supplier of zinc dust, and it may be that some of this commodity originated in the DRC. Over the last three years, China's imports of zinc dust from South Africa have been substantially higher than previous years.

China is a major destination of cobalt, copper and related ores and concentrates exported by South Africa, as shown by Table 6 overleaf. However, there are anomalies between South Africa's declared figures for exports in cobalt and copper to China, and China's declared import figures for these substances. Analysis of trade flows in cobalt ores and concentrates from South Africa to China in Table 6 show significant differences in China's declared level of cobalt imported from South Africa (5,571 tonnes in 2003) in comparison with South Africa's exports to China (21,120 tonnes in 2003).

Conversely, analysis of trade flow in copper ores and concentrates in Table 7 (overleaf) shows that China's imports of copper from South Africa in 2003 (28,707 tonnes) are more than double South Africa's declared exports of copper to China that year (12,428 tonnes).

South Africa also exports substantial quantities of nickel ores and concentrates, and since 2003 China has been a significant destination of South Africa's refined nickel (see table 8, overleaf). Japan has also been a major recipient of South Africa's exports in "unwrought nickel." Again, it may be possible that some of this commodity exported from South Africa originated in the DRC.

Table 4: South Africa – imports from DRC

Commodity: HS code 2605 – "cobalt ores and concentrates"

2002	Jan	Feb	March	April	May	June	July	Aug	Sept	Oct	Nov	Dec	Total
US\$ '000		14	12	10	67		116	5			2	2	228
tonne		508	295	191	1540		1731	124			34	34	4,457
<b>2003</b>													
US\$ '000									15	77	127	95	314
tonne									245	1805	1629	1348	5,027
<b>2004</b>													
US\$ '000	58	131	72										
tonne	1028	1783	626										

Source: World Trade Atlas

Table 5: South Africa – imports from DRC

Commodity: HS Code 79031000 – "zinc dust"

2002	Jan	Feb	March	April	May	June	July	Aug	Sept	Oct	Nov	Dec	Total
US\$ '000													0
tonne													0
<b>2003</b>													
US\$ '000	1167	151	116	16	21	65	41	44	54	80	20	79	1,854
tonne	1842	309	169	121	103	311	207	207	249	400	90	375	4,383
<b>2004</b>													
US\$ '000	163	37	364										
tonne	777	161	1328										

Source: World Trade Atlas



Table 6: Trade flow from South Africa to China

Commodity: HS code 2605 – "cobalt ores and concentrates"

	1996	1997	1998	1999	2000	2001	2002	2003
<b>China's imports from South Africa</b>								
US\$ '000, cif	38	147	163	2,225	9,630	4,780	4,521	6,247
tonne	234	436	518	1,810	5,350	5,314	2,223	5,571
<b>South Africa's exports to China</b>								
US\$ '000, fob	0	0	11	63	545	300	1,608	12,335
tonne	0	0	158	1,441	3,659	1,321	4,657	21,120
					3	7	1	2

Source: World Trade Atlas

Table 7: Trade flow from South Africa to China

Commodity: HS code 2604 – "copper ores and concentrates"

	1996	1997	1998	1999	2000	2001	2002	2003
<b>China's imports from South Africa</b>								
US\$ '000, cif	0	0	135	9	11,569	3,661	5,164	11,114
Tonne	0	0	897	52	27,592	17,070	22,618	28,707
<b>South Africa's exports to China</b>								
US\$ '000, fob	0	0	0	2,881	0	823	220	2,488
Tonne	0	0	0	9,414	0	4,840	4,311	12,428

Source: World Trade Atlas

Table 8: South Africa's exports

Commodity: HS code 75 – "refined nickel"

	1997	1998	1999	2000	2001	2002	2003
<b>Product:</b>							
HS code 7501	51.8	9.3	1.0	0.2	0.0	0.1	0.3
HS code 7502	14.2	11.6	16.9	31.9	17.0	22.8	47.6
HS code 7506	9.2	36.4	57.5	68.6	45.4	41.8	49.5
Others	1.9	1.4	2.0	2.3	1.2	0.7	3.3
<b>HS code 7506 destination country: China</b>							
US\$ million, fob					1.9	3.8	20.3
thousand tonne					0.3	0.5	2.5

Source: World Trade Atlas

Key to HS codes:

HS code 7501 Nickel mattes, nickel oxide sinters and other intermediate products of nickel metallurgy

HS code 7502 Unwrought nickel

HS code 7506 Plates, sheets, strip and foil of nickel alloys and non-alloy nickel (other than expanded plates sheets or strip)

## Zambia

As the DRC's neighbour and fellow copper and cobalt producer, it is important also to look at Zambia's imports and exports in heterogenite minerals in order to compare levels of exports to China in copper and cobalt ores.

Zambia's declared imports of cobalt ores from the DRC in 2001 and 2002 were minimal, and no statistics for 2003 and 2004 are yet available. However, imports of copper ores and concentrates from the DRC rose in 2002.<sup>100</sup>

Zambia's exports of "cobalt mattes and intermediate products" to China were on a rising trend in the late 1990s, and rose sharply in 2001 (see Table 9, below). Zambia supplied almost 40% (by weight) of China's imports of this commodity in 2002 and 2003. Given the lack of oversight in trade from the DRC to Zambia, and the minimal amount of mineral processing within the DRC, it is likely that some of this processed cobalt originated from Katanga.

Zambia is also the principal supplier of China's imports of "refined copper" (see Table 10, below). China has also imported substantial quantities of this commodity from Congo Brazzaville, South Africa and Uganda. Some of those imports from each of these countries might have originated in the DRC.

There is also currently a rising trend in Zambia's "unrefined copper" exports to China as indicated in Table 11 (overleaf), but Zambia does not supply a large share of China's imports of this metal. It is also possible that quantities of this commodity originated in the DRC.

Table 9: China – imports from Zambia

**Commodity: HS code 8105 – "cobalt: matte, intermediate products, powders, etc."**

	1996	1997	1998	1999	2000	2001	2002	2003
US\$ '000	744	1,368	2,070	6,518	9,959	23,828	24,619	21,091
tonne	34	89	85	229	380	1,107	1,637	1,287
<b>HS code 81051000</b> – Cobalt mattes and other intermediate products of cobalt metallurgy; unwrought cobalt; powders of cobalt; cobalt waste and scrap (excluding ash and residues containing cobalt)								
US\$ '000	99	238	1,626	6,406	9,959	23,828		
tonne	21	55	75	224	380	1,107		
<b>HS code 81052000</b> – Cobalt mattes and other intermediate products of cobalt metallurgy; unwrought cobalt; cobalt powders								
US\$ '000							22,986	20,338
tonne							1,524	1,238
<b>HS code 81059000</b> – Articles of cobalt n.e.s.								
US\$ '000	645	1,130	444	112			1,633	753
tonne	13	34	10	5			113	49

Source: World Trade Atlas

Table 10: China – imports from Zambia

**Commodity: HS code 74031100 – "refined copper, as cathodes"**

2002	Jan	Feb	March	April	May	June	July	Aug	Sept	Oct	Nov	Dec	Total
US\$ '000							6,921	5,848		1,866			14,635
tonne							3,989	3,485		1,076			8,550
<b>2003</b>													
US\$ '000	837				510		6,915		1,652	1,750	1,100	4,030	16,794
tonne	500				300		4,005		1,001	1,000	500	1,952	9,258
<b>2004</b>													
US\$ '000	10,120	1,109	2,179	4,680	4,418								
tonne	4,218	462	999	1,999	1,647								

Source: World Trade Atlas

Table 11: China – imports from Zambia

Commodity: HS code 7402 – "unrefined copper"

2002	Jan	Feb	March	April	May	June	July	Aug	Sept	Oct	Nov	Dec	Total
US\$ '000							2,076		2,018	29			4,123
tonne							1,331		1,420	20			2,771
<b>2003</b>													
US\$ '000					2,102		546		80	247	3,165	1,148	7,288
tonne					1,268		300		51	162	1,676	592	4,049
<b>2004</b>													
US\$ '000	319	100		5,504	5,572								
tonne	202	60		1,883	1,897								

Source: World Trade Atlas

## Tanzania

Tanzania is a potential alternative exit point for minerals exported from Katanga, as there are established trade routes from Zambia and the DRC through to the Tanzanian port of Dar es Salaam. However, between 1999 and 2002, Tanzania's declared imports of minerals from the DRC were minimal.<sup>101</sup>

Since March 2004 China's imports of copper ores and concentrates from Tanzania have risen sharply (see Table 12). These commodities may have been derived either from Zambia or the DRC along the Chinese-built railway from the copper belt to the port at Dar es Salaam. It may be that customs documents recorded the last port of departure rather than the country of origin.

Table 12: China – imports from Tanzania

Commodity: HS code 2603 – "copper ores and concentrates"

2002	Jan	Feb	March	April	May	June	July	Aug	Sept	Oct	Nov	Dec	Total
US\$ '000													0
tonne													0
<b>2003</b>													
US\$ '000													0
tonne													0
<b>2004</b>													
US\$ '000	0	0	1,372	4,330	9,425								
tonne	0	0	492	1,825	2,493								

Source: World Trade Atlas

## International trade statistics summary

Analysis of international trade statistics also indicates that it is difficult to trace precisely the origin of cobalt and copper being exported to China from Zambia, Tanzania and South Africa. There is no international certification system that can assist in the tracking flows in trade of these commodities throughout Africa. Further, the absence of effective oversight of the exploitation of heterogenite in Katanga, as well as the lack of reliable and systematic analysis and certification of minerals being taken from the DRC renders precise analysis on the amounts of minerals being exported from Katanga extremely difficult. Nevertheless, it is clear that enormous quantities of the DRC's valuable minerals are being lost every week. On the figures obtained on China's imports of the DRC's cobalt ores for 2004 alone, the average value of cobalt being exported each week from Katanga is US\$1,700,000. Serious deficiencies in oversight and transparency means that it is unclear how much, if any, of this revenue ends up in DRC central government coffers.

## Bringing it all together: statistical hints and gaps

The "cobalt rush" currently driving mining activities in Katanga is clearly driven by high demand for cobalt and copper ores, concentrates and related materials in China. China's declared imports of cobalt from the DRC are extremely high, and imports have been on a rising trend since the end of 2003. However, these statistics do not always reflect numbers provided to Global Witness by the DRC government. In March 2004, China alone imported US\$10,707,000 worth of cobalt ores and concentrates from the DRC, whereas OFIDA statistics claim that the DRC only exported US\$7,423,600 of cobalt ores and concentrates that month.

## 11 Donor policy in DRC

**I**NTERNATIONAL DONOR assistance in the DRC comes in many forms and seeks to address a range of serious problems facing the DRC, from food security, to demobilization of child soldiers, to governmental institutional strengthening. At the time of writing, there were over 23 donors providing aid and assistance to the DRC through Government bodies, UN agencies, NGOs, and private firms. This section provides an overview of international multilateral and bilateral aid provided to the DRC, and looks to see which donors have policies aimed at strengthening natural resource governance. The section looks first at international financial institutions (IFIs) and then goes on to examine bilateral donors.

### International Financial Institutions

#### *World Bank*

The World Bank has supported economic and structural reforms in the DRC since 2001. The Bank is candid about the fragility of the DRC's economic and political environment, estimating that it will take fifty-six years for the DRC to reach 1960 levels of GDP.<sup>102</sup> In steps to begin to redress the DRC's economic challenges, in July 2001 the Bank approved an Emergency Early Recovery Project of US\$50 million, and the following year approved an Economic Recovery Credit of US\$450 million. The Bank also began to disburse US\$454 million in an Emergency Multi-Sector Rehabilitation and Reconstruction Project in July 2002. In February 2004 the World Bank provided a Post-Reunification Economic Recovery credit of US\$200 million to support "urgent reforms in critical areas including initiating a civil service reform."<sup>103</sup>

The Bank has identified that in the past extractive-industry led economic growth in the DRC did not mean that wealth generated by natural resources was redistributed to the majority of Congolese. Indeed, the Bank has stated that "the past focus on natural resources and extractive industries... might have contributed to the mismanagement of the economy."<sup>104</sup>

One key recommendation contained in the World Bank's Extractive Industry Review conducted by the Bank in 2003, was that the Bank should "vigorously promote" revenue transparency at country and company level in all its operations.<sup>105</sup> In the DRC, the Bank has stated that the improvement of efficiency and transparency in the management of natural resources is important. The Bank has taken steps to strengthen resource governance in the sponsoring of the new Mining and Forestry Codes introduced in 2002. The Bank also supported the preparation of an updated mining cadastre and a review of concessions allocated to date in the Mining and Forestry sectors.<sup>106</sup> In its Transitional Support Strategy, the Bank has committed itself to improving natural resources management "with a view to improving both transparency in allocating mining and forestry rights and the management of the revenues generated in these sectors."<sup>107</sup>

In July 2003 the Bank approved \$120 million to the DRC government to "facilitate growth in the private sector and rebuild its economy."<sup>108</sup> The funds were funneled into a Private Sector Development and Competitiveness Project aimed at improving the effectiveness of selected firms in various sectors including

mining. A key component of the Project is building capacity within the Ministry of Mines and improving the fiscal framework for investment. A further component is the development of enterprises for laid-off Gécamines workers in Katanga, as well as "training for un-employed workers and other vulnerable groups, and supporting the development of the supply chain to the mining industry."<sup>109</sup>

As this report demonstrates, at the national and regional level, technical and administrative capacity both in the Ministry of Mines and OFIDA remains extremely weak. This institutional weakness means that, at present, achieving transparency and ensuring revenues are managed accountably and responsibly is easier said than done. Further, at the local level, little has been done to date to "re-train" ex-Gécamines and other unemployed people in Katanga. High unemployment combined with dramatic rises in cobalt prices has led to a dramatic increase in numbers of artisanal miners working in appalling conditions throughout the DRC's copperbelt.

In an International Development Association (IDA) report setting out the Transitional Support Strategy for the DRC, the proposed Bank strategy for 2004/2005 includes creating "high and shared" economic growth partly through improved natural resource management.<sup>110</sup> To date the Bank has supported the adoption of an anti-corruption strategy as well as a public declaration of President Kabila's wealth to parliament in August 2003.<sup>111</sup> The Bank has also recognized that improving the capacity of the government, the provision of salaries for civil servants, and the restoration of a functioning statistical system need to be addressed.<sup>112</sup> This is also a publicised part of the DRC Government's agenda for reform, which has placed particular emphasis on anti-corruption.<sup>113</sup> The Bank is correct to identify these as areas where reforms are needed: it is now time for concrete action to be taken and specific projects and plans to be designed and implemented to ensure capacity is augmented and full transparency is achieved.

The Bank, as a taxpayer-funded public institution, has the responsibility to ensure its loans and assistance alleviates poverty rather than rewards a country's failure to manage its own extractive industry revenues effectively. The Bank undermines this responsibility if it provides loans and assistance to the DRC without asking for full transparency and effective oversight of the mining sector.

There is an urgent need for global standards on governance for development assistance, which can then be consistently promoted by multilateral and bilateral donors. The Bank has a clear leadership role to play here. The Transitional Support Strategy agenda includes mobilizing and coordinating donors: the Bank should vigorously promote strong donor cooperation to improve natural resource governance in the DRC.<sup>114</sup>

#### *International Monetary Fund*

International financial institutions appear to be cautiously optimistic about the DRC's economic prospects. In July 2004, the IMF released a study praising the DRC government for structural reforms, and indicated that there had been improvements made to the social sectors, judiciary and regulatory bodies and the financial sector.<sup>115</sup> However, the IMF predicted that it would take 45 years for the DRC to reach levels of development present in 1990 – a time when mineral



processing and export from Katanga provided a substantial contribution to national coffers.<sup>116</sup>

Following a review of the Poverty Reduction and Growth Facility, the IMF approved a loan of \$40 million. This takes the total of funds approved to the DRC to US\$782 million of a US\$861 million Poverty Reduction and Growth Facility agreed in 2002. The DRC government must pay back the loan at an annual interest rate of 0.5%, repayable over 10 years. The IMF loan will be added to the government's general revenue to "reform and restructure the economy." In a press statement, an IMF spokesperson called for DRC authorities to ensure "good governance and transparency in natural resource activities," and stated the government planned on adopting laws to combat corruption and money laundering.<sup>117</sup>

Despite indications of reforms in the IMF's report and its show of good faith in allocating a further \$40 million to the government, questions must be raised about the impact of opaque and ineffective management of the DRC's mining sector on the wider economy. In order for the IMF's fiscal reforms to be effective, it is crucial that a full picture of revenue and export flows from the mining sector revenue is built. The IMF has already proven its commitment to extractive industry transparency in neighbouring Congo Brazzaville and Angola: it should mainstream this "best practice" on accountability as part of overall fiscal reforms in the DRC as well.

This section now turns to examine how individual donor countries are engaging with the DRC. As will be demonstrated, there is little coherence amongst bilateral donors on programmes to improve natural resource governance. While it is crucial that donors continue to support and augment humanitarian aid programmes in the DRC, it is equally important for the long-term sustainable and equitable economic development of the DRC to ensure that the DRC effectively and responsibly harnesses its vast natural wealth.

### **Bilateral Aid**

**Belgium** is one of the most significant donors in the DRC: from 2002 to 2003 assistance was at the rate of €41 million per year (US\$45 million), and this will be doubled by the end of 2004 to a total of €82 million (US\$90 million). The additional €41 million will be used mainly to fund educational and health projects and foster the development of DRC's democratic institutions.<sup>118</sup>

Belgium's programmes are currently focused around social sectors: health, education, food security, community forest and environment initiatives, as well as humanitarian aid. While the Belgian government acknowledges that good governance and anti-corruption are areas of concern, there is currently no Belgian involvement in programmes related to the effective and transparent management of the mining sector.

The **European Commission's** three general areas of engagement in the DRC are conflict prevention, good governance and progressive rehabilitation. Under the Cotonou Agreement, good governance also is a key pillar of partnerships between the EC and aid recipients. As the DRC moves towards democracy, this has been translated into the EC making the reinforcement of institutional capacity a priority area of concern. Other priority areas are the reduction of poverty through health programmes, and macro-economic stabilisation. According to the EC, good governance and transparency are two areas that are a priority for future financial

stability and democracy.<sup>119</sup>

In 2004 the EC has, to date, provided approximately US\$3.6 million (€3 million) for technical cooperation, US\$3.5 million (€2.9 million) for administrative management, and US\$6 million (€5 million) for the formation of a united police force. In 2003 the EC provided US\$6 million (€5 million) for reinforcing management and capacity and rehabilitating protected areas; US\$14 million (€12 million) for agricultural production reform; and US\$32.5 million (€26.9 million) for rehabilitation in Eastern DRC. In addition, in 2003 the EC has provided US\$42.6 million (€35 million) in humanitarian aid through ECHO, and a further US\$48.7 million (€40 million) in 2004. ECHO is supporting the Congolese public health system, food aid, as well as providing support to rehabilitation and resettlement activities to assist returning populations.

The **United Kingdom's** Department for International Development (DfID) has recently significantly augmented its bilateral assistance to the DRC, making the UK government one of the most significant donors. Since 2003, DfID has joined with other international community members in providing support for demobilisation, disarmament and re-integration of security forces. DfID has also been involved in "quick start" programmes to provide health and education to war-affected parts of the country. The UK is set to increase its assistance to help rebuild the country from £23 million in 2003/04 to approximately £40 million (US\$41.3 million) in 2004/05. This is in addition to contributions of around £70 million (US\$125 million) through the European Commission, the United Nations and the World Bank. The UK has recognised the importance of addressing natural resource governance issues during the transitional period, and is in the process of developing governance and anti-corruption strategy policies.

The **United States** is currently working in the DRC to address security issues and to "develop mutually beneficial economic relations."<sup>120</sup> USAID's direct involvement with the DRC government began in June 2003 after sanction for nonpayment of debt under the Foreign Assistance Act was lifted and a rescheduling agreement was reached between the US and the DRC. The main objectives of US aid to the DRC are: health, democracy and governance, livelihoods and education, as well as ex-combatant reintegration. In 2003 US aid to the DRC amounted to US\$75 million, in 2004 it is US\$54 million, and USAID has requested US\$32 million for 2005. Of this, the US has allocated approximately US\$1 million for strengthening the capacity of national institutions in the lead up to elections. This money is being distributed through training and conferences, through international NGOs, as well as being directed to key commissions, ministries and parliamentary committees.

Neither natural resource governance, nor strengthening the capacity of government institutions not directly involved in the move towards elections, feature in USAID's current or planned programmes in the DRC.

**Canada's** aid to DRC includes a programme for capacity reinforcement in the Central Bank of Congo (Banque Centrale du Congo (BCC)) of approximately US\$3.3 million. This money will be split equally between targets aimed at creating a private sector enabling environment in the BCC; and capacity, skills and

productivity enhancement. Canada is also providing support for health care, child soldier demobilisation and other peace building initiatives. However, assistance to strengthen natural resources management capacity does not feature in Canada's overall aid programme to the DRC for 2004.

At the beginning of 2004, **France's** annual ongoing and planned support to the DRC amounted to US\$34 million. France has five areas of priority for the disbursement of this money: urban development, food aid, a social fund, support to NGOs, and technical cooperation. At present, governmental capacity building and natural resource management is not a feature of France's aid programme to the DRC.

In 2004 **Japan** granted US\$2.7 million (300 million yen) in food aid to the DRC. In March 2004 Japan announced that it would extend its total assistance for food security and the revival of agricultural projects by approximately US\$1 million (114,477,290 yen). Governance, capacity building or natural resources management do not feature in Japan's aid policy to the DRC.

**The Netherlands** current engagement with the DRC has a regional Great Lakes focus, with its main activities in the DRC centred on humanitarian aid, stabilisation, disarmament and the reintegration of combatants. In 2003 the Netherlands provided US\$1 million for logistical support to the transitional government to begin its activities. While natural resource management or government institutional capacity building is not currently a feature of Dutch aid to the DRC, the Netherlands Development Cooperation 2003 Africa Memorandum identifies the sustainable management of natural resources as being important to the promotion of stability and economic growth. According to the Memorandum, Dutch policy on natural resource management will "concentrate on good governance, capacity building in the environment sector, sustainable economic development and the links between conflicts and the environment." Global Witness encourages the Dutch government to actively explore ways of applying this policy in the DRC.

In 2003 **Sweden's** aid to the DRC through Sida amounted to approximately US\$12 million. The bulk of this was earmarked for humanitarian aid and conflict prevention (approximately US\$10 million) and NGOs (US\$1.7 million). US\$241,224 was set aside for infrastructure, trade, urban development and financial systems. Strengthening government institutional capacity is not currently a feature of Sweden's aid programme in the DRC.

### Summary

The majority of bilateral donors do not currently have programmes or projects supporting strengthening institutional capacity, good governance and transparency in natural resource extraction in the DRC. The main focus of donor aid is humanitarian, the continuation and further augmentation of which is to be encouraged. Nevertheless, *in addition to* humanitarian aid, it is essential for the long-term economic development and stability of the DRC that all bilateral and multilateral donors work together to address the appalling lack of institutional capacity and absence of transparency in the DRC's natural resource extraction sectors. The DRC needs the

institutional tools and impetus to manage resources in a way that transparently generates revenues to create the economic stability and essential services desperately needed by the majority of Congolese people. The international donor community could, in effect, help the DRC to help itself if greater attention was paid to the importance of the management of natural resources. An obvious place to begin is to assist in stopping the massive loss of revenues and valuable minerals from Katanga.

International donor aid, however, is not provided in a political vacuum. The DRC's fragile transitional government faces many challenges in the lead up to elections, but it also has the responsibility to work and cooperate fully with the international community to ensure reforms are carried through to completion. While the government does not have the full capacity to govern the DRC's mining sector effectively, it does have the ability to request assistance and to cooperate fully with donors to rapidly implement necessary reforms. A combination of Congolese political will and donor assistance is required to address the lack of oversight of mining in Katanga and to construct long-term structures of effective control and transparent resource governance.

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## 12 Conclusion

**A**NALYSIS OF the copper and cobalt sector in Katanga clearly shows that the governance of natural resources remains a highly problematic issue in the DRC. There appears to be little control over the mining sector, with unknown quantities of minerals haemorrhaging out of the country every month. The DRC is missing a crucial opportunity to benefit from the current boom in world cobalt prices, as so much of its ore is being smuggled out of the country and the vast majority is leaving unprocessed. Mining revenues from the copperbelt could provide much-needed revenue for the Congolese government to support the economic development that the DRC so desperately needs. However, in its current state, this sector is benefiting neither the economy as a whole nor the local population.

Instead, poverty and instability have increased in the province in recent years. Artisanal mining is being carried out in dangerous and uncontrolled conditions, with thousands of miners risking their lives to earn around US\$1 a day. The international community needs to work to develop an integrated strategy to address problems faced by artisanal miners in Katanga: working conditions need to be regulated as laid out in the Mining Code (see section 8), safety measures implemented, and alternative employment opportunities developed.

The situation would be vastly improved with a concerted effort to implement the Mining Code on the ground, but as yet there appears to have been little progress made in the implementation of regulation in the copper and cobalt sector. Without the active support of the international donor community, this situation is unlikely to change but as yet, the donor community have shown little willingness to tackle issues of corruption and transparency in the DRC. Until these issues are tackled, the DRC will continue to lose millions of dollars a month in potential revenue from the copper and cobalt sector in Katanga.

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## Acknowledgements

This report was realised with financial support from the UK Department for International Development (DfID).

Design by Dan Brown  
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All photos © Global Witness.  
Front cover photo: Artisanal mine, Kolwezi, DRC, May 2004.

Printed on 100% unbleached recycled paper.

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ISBN 0 9753582 5 1



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Washington DC 20036

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ISBN 0 9753582 5 1