Japan International Cooperation Agency

Project on Supporting Investment Promotion in Africa

Data Collection Survey on Investment Promotion in the Democratic Republic of Congo

March 2016

KRI International Corp.

Ernst & Young Sustainability Co. Ltd.

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List of Abbreviations

Abbreviations	:	Name
AMU	:	Arab Maghreb Union
ANAPI	:	Agence Nationale pour la Promotion des Investissements
AU	:	African Union
AfDB	:	Africa Development Bank
BCC	:	Banque Centrale du Congo
CCJA	:	Cour commune de Justice et d'Arbitrage de l'OHADA
CDM	:	Clean Development Mechanism
CEN-SAD	:	Community of Sahel–Saharan States
CET	:	Common External Tariff
CIF	:	Cost, Insurance and Freight
COMESA	:	Common Market for Eastern and Southern Africa
CONAREF	:	Comission Nationale de la Réforme Foncière
COPIREP	:	Comité de Pilotage de la Réforme des Entreprises du Portefeuille de l'Etat
CPCAI	:	Commité de Pilotage pour l'améllioration du Climat des affaires et investissements
CPCC	:	Conseil Permanent de la Comptabilité au Congo
DGDA	:	Direction Générale des Douanes et Accises
DGI	:	Direction Générale des Impôts
DGRAD	:	Direction Générale des Recettes Administratives, Judiciaires, Domaniales et de Participations
DfID	:	Department for International Development
EAC	:	East African Community
EBA	:	Everything But Arms
ECCAS	:	Economic Community of Central African States
ECOWAS	:	Economic Community of West African States
EITI	:	Extraction Industry Transparency Initiative
EMCCA	:	Economic and Monetary Community of Central Africa
ERSUMA	:	École Régionale Supérieure de la Magistrature

EU	:	European Union
FEC	:	Fédération Enterprises du Congo
FERI	:	Fiche Electronique de Renseignement à l'importation
FNM	:	Fonds National de la Microfinance
FOB	:	Free on Board
FPI	:	Fonds de Promotion de L'Industie
FTA	:	Free Trade Area
GDP	:	Gross Domestic Prodcut
GPRSP 2	:	Second Growth and Poverty Reduction Strategy Paper
GSP	:	Generalized System of Preference
GUCE	:	Guichet Unique pour Creation d'Entreprise
IBP	:	Impôt sur les bénéfices et profits
ICA	:	Impôt sur le chiffre d'affaires
ICD	:	Inland Container Depot
ICSID	:	International Centre for Investment Disputes
IFRS	:	International Financial Reporting Standards
IGAD	:	Intergovernmental Authority on Development
INPP	:	Institut National de Préparation Professionnelle
INS		Institut National de la Statistique
INSS	:	Institut national de sécurité sociale
JICA	:	Japan International Cooperation Agency
MDGs	:	Millenium Development Goals
MIGA	:	Multilateral Investment Guarantee Agency
OECD	:	Organisation for Economic Co-Operation and Development
OGEFREM	:	Office de Gestion de Fret Maritim la Républic Démocratique du Congo
OHADA	:	Organization for the Harmonization of Business Laws in Africa
ONATRA	:	Office Nationale de Transport
ONEM	:	Office National de l'Emploi
PCGC	:	Congolese General Chart of Accounts, Plan Comptable Général Congolais

PFI	:	Policy Framwork for Investment
PME/PMI	:	Petites et Moyennes Enterprises ou Petites et Moyennes Industries
PNIA	:	Plan national d'investissement agricole
RCCM	:	Registre du Commerce et du Crédit Mobilier
RCO	:	Redevance Sur Les Concessions Ordinaires
REC	:	Regional Economic Community
REDD	:	Reducing Emissions from Deforestation and Forest Degradation in Developing Countries
RVA	:	Régie des Voies Aériennes
SADC	:	Southern African Development Community
SCTP	:	Société commerciale des transports et des ports
SNCC	:	Société Nationale des Chimines de fer de Concolais
SOFIDE	:	Societe Financiere de Developpement
TFTA	:	Tripartite Free Trade Area
TICAD V	:	Tokyo International Convention for Africa Development V
UNCTAD	:	United Nations Conference of Trade and Development
USGAAP	:	Generally Accepted Accounting Principles in the United States
TVA	:	Taxe sur la valeur ajoutée
WCO	:	World Customs Organization
WDI	:	World Development Indicator
WIPO	:	World Intellectual Property Organization

Basic Investment Guide for Private Companies

-Basic Information related to investment in DRC-

1. General Background

The Democratic Republic of Congo (DRC) is located in the central Africa with the land size of 2.3 million km2, which makes the country the second largest one in Africa following Algeria. Though the DRC faces the Atlantic Ocean but its ocean line is only 40 km[1]. The DRC is surrounded by nine countries.

Source: UNHCR (2015) Democratic Republic of Congo New 26 Provincial Sub-Divisions

Figure 1-1 Map of the Democratic Republic of Congo

[1] CIA World Factbook, 2015

DRC has rich natural resources in its large land area and its consumer market is expected to expand due to the increase in population and expansion of middle class. However, the Eastern region is still fragile due to historical tribal conflicts, conflicts between armed groups over natural resources, and intervention by neighboring countries. The background information of the country is shown below.

Table 1 Country Outline

1	**Size**	2.3 million km^2 (2015)
2	**Population**	83.2 million people (2014)
3	**Capital**	Kinshasa
4	**Climate**	Three types of climate: rainforest climate, tropical climate, and alpine climate. The temperature varies from 15℃ to 35℃**.** DRC has the second largest rainforest in the world following Brazil. Some locations have over 2,000 mm precipitation per year.
5	**Language**	French (official language), Kicongo, Chilba, Lingála, Swahili.
6	**Religion**	Christian (mainly Catholic) 85%, Muslim 10%, Other traditional religion 5%.
7	**Politics**	Republic with Mr. Joseph Kabila as the president

Source: 1－2 and 4: Institut National de la Statistique (INS) (2014) Annuaire Statistique, 3 and 5-7: Ministry of Foreign Affairs (http://www.mofa.go.jp/mofaj/area/congomin/data.html)

Table 2 Main Economic Statistics

Item		Value	Year
1	Nominal GDP	40.2 billions	2013
2-1	Real GDP growth	8.5%	2013
2-2	Real GDP growth	7.5%	Average between 2011-2013
3	Consumer	1.2%	2013
4	Export value	11.6 billion USD	2013
5	Import value	10.8 billion USD	2013
6	Trade balance	0.8 billion USD	2013
7	Current account	-2.9 billion USD	2013 (estimate)
8	Financial account	-2.7 billion USD	2013 (estimate)
9	Foreign Direct Investment	1.7 billion USD	2013 (estimate)
10	Foreign reserve	1.8 billion USD	2013
11	Exchange rate (1USD)	919.7 CDF	2013 (estimate)

Source: Banque Centrale du Congo (BCC) (2013) Rapport Annuel

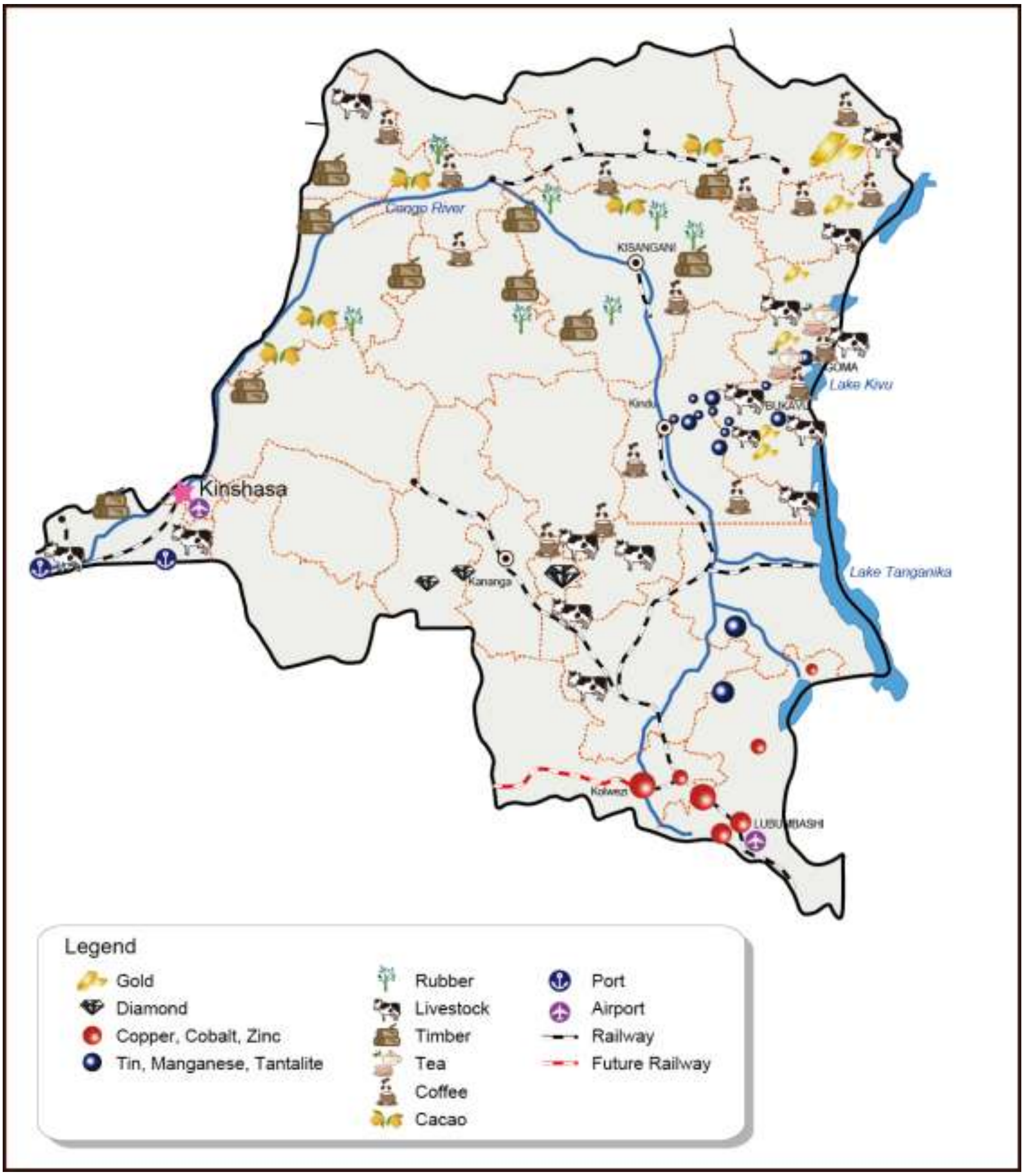
Table 3 Main Social Development Statistics

Item			Value		Year
1	Population growth		3.3	%	Average between 2010-2014
2	Life expectancy		58.7	Age	2014
3	Infant mortality rate	(per 1,000)	58	People	2013
4	Maternal motility rate	(per 100,000)	846	People	2013
5	Net enrolment of primary education	(boy)	69.4	%	2012
		(girl)	63.8	%	2012
6	Graduation rate of secondary education	(boy)	35.2	%	2012
		(girl)	18.0	%	2012
7	Adult literacy rate	(male)	91.2	%	2012/13
		(female)	73.6	%	2012/13

Source: 1: UNDP (2015) Human Development Report, 2-8: INS (2014) Annuaire Statistique

2. Investment potential

The production locations of major mineral, agro and forestry resources are as shown in the figure below.



Source: JICA Study Team based on BCC (2013) Rapport Annuel

Figure 2 Map of Mineral Resources and Agricultural Products in DRC

Mineral deposits in DRC are located in the vast area in Kivu in the Northeast area, Katanga in the Southeast, and Kasaï in the South. Also, various types of crops can be produced as the vast land provides different types of conditions suitable for different types of crops. However, problems of minerals are found in the fall of the price of mineral resources, shortage of the power necessary for smelters, and regulatory burdens. As for agriculture, irrigation, logistics, and transportation infrastructure has not been fully laid out yet in general. The farmers may also encounter difficulty of procuring adequate and cheap agro-inputs such as seeds and seedlings and fertilizers.

3. Legal Framework

Sixteen countries in West Africa are participated in the regionally harmonized legal system for business called "the Organization for the Harmonization of Business Laws in Africa (Organisation pour l'Hamonisation en Afrique du Droit des Affaires: OHADA)". By adopting the harmonized business laws, it is expected to increase the credibility in the international business. In 2012, DRC participated in OHADA and has adopted the harmonized business laws of OHADA as its domestic laws.

The Investment Code (Loi n° 004/2002) stipulates in Articles 23 to 27 in part 5 (Titre V) that: i) the investors' property rights are protected regardless of Congolese national or foreigners as guaranteed by the Constitution; ii) the property of the investors will not be nationalized or expropriated by newly established laws and decisions made by the sub-national authorities unless it is based on reasons for public benefit, and justifiable and equitable compensation is made; and the compensation should be made based on the market value of the asset.

In terms of dispute settlement, the Investment Code states that disputes between the Government of DRC and foreign nationals shall be settled based on the Convention of the International Centre for Investment Disputes (ICSID) and ICSID, or the rules of arbitration by the International Chamber of Commerce if it is not settled within 3 months after the day for the first appeal in writing of the negotiation is made. Also, DRC ratified the New York Convention which provides the rules and framework for arbitration of international commercial disputes.

4. Investment Background

(1) Type of companies and incorporation procedures

There are six types of companies for a foreign company to start business in DRC: namely Private Companies (Société en Nom Collectif (SNC)), Sleeping Partnerships (Société en Commandite Simple), Private Limited Companies (Société á Responsabilité Limitée (SARL)), Public Limited Companies (Société Anonyme (SA)), Branch, and Representative Office. The minimum capital when a public limited company is set up is 20,000 USD. The incorporation fee is 120 USD for a corporation and 40 USD for a sole proprietor. The DRC government established the One Stop Service for Starting Business (Guichet Unique de Creation D'Entreprise: GUCE) under the Ministry of Justice to facilitate all the incorporation processes including company registration and tax registration.

(2) Investment approval

When it comes to incentives, there are laws related to conditions and incentives for specific sectors and laws to regulate incentives for other sectors for investment promotion purpose. Under the Investment Code, National Investment Promotion Agency (Agence Nationale pour la Promotion des Investissements : ANAPI) has the authority to provide investment approval for investors. Article 8 of the Investment Code sets the following five conditions to obtain incentives under the Code.

1. To have incorporated under Congolese Law;
2. To ensure minimum investment of USD 200,000[2];
3. To comply with rules and regulations of environmental protection and natural reserves;
4. To train local staff for future promotion to the position of expert technicians, supervisors and executives; and
5. To ensure an added value of at least 35%[3].

When investors apply for investment approval, they have to provide information in application form such as i) general information; ii) technical information; iii) employment generation plan; and iv) financial plan. In addition, they have to submit a list of machinery and equipment (volume and valuation amount) to import for duty exemption procedure.

The fiscal incentives provided by the Investment Code are shown in the table below. The Investment Code defines the applicable duration according to the locations of projects and it varies from 3 to 5 years. The list of the goods for duty-free importation shall be stated by inter-ministerial decision (Arrêté Interministériel d'agrément) provided upon the approval of the granting of the incentives. In the Investment Code, there are no other non-fiscal incentives mentioned.

Table 4 Incentives by the Investment Code

Types of Incentives	Items
Fiscal Incentives	· Corporate tax exemption: 3 to 5 years. · Property tax exempted if it is in the project location.
Incentives on Import and Export Duty	· Export duty on the machinery and equipment for project as well as spare parts less than 10% of CIF value of the machinery is exempted. · Duty free import of second hand construction machinery, ships and airplane · Export duty exempted. · Import duty free for industrial inputs used for the project. · Allowance for the expenditure for training and environmental protection measures.

Source: Investment Code (Loi n° 004/2002) and the material prepared by ANAPI.

The import duty exemption is only applicable if the product is not manufactured in DRC or the price before tax of those produced in DRC are10% or more expensive than the imported one. Even it can

[2] However, the Article 2 h) specifies the minimum investment for Small and Medium Enterprises (SMEs) as USD 10,000.
[3] There is a room for negotiation of the sector to be invested in has a high potential.

be customs duty free, 2% of the import charge and the 16% of TVA are not exempted.

Apart from the incentives provided by the Investment Code, the incentives for the following sectors are also provided by separate laws.

Table 5 Sector-Specific Incentives in DRC

Industry	Major incentives
Agriculture (Farming Law)	・ Export duty on the produce is exempted. ・ Import duty and other tax on import of agro-inputs are exempted. ・ Property tax on the agricultural production is exempted. ・ The tax and charges for the public services related to export of produce are limited to 1% of the value of the exported goods.
Mining （Mining Code）	・ Reduced tax rate for withholding tax on dividend (10% whereas 20% for normal case) ・ Reduced tax rate for the extra tax on the income of expatriates (IERE, 10% whereas 25% for normal case) ・ Reduction of the import customs duty depending on the types of license (3 to 5%) ・ Export duty is exempted. ・ Duty free import for petroleum products and lubricants for the use of mining related activities. ・ Property tax is exempted. ・ Vehicles tax is exempted. ・ The tax and charges for the public services related to export of products are limited to 1% of the value of the exported goods.
Power (Décret 15/009 du 28 avril 2015)	・ Import customs duty and TVA on equipment for power infrastructure are exempted. ・ Import duty for electricity is exempted. ・ Export duty for electricity is limited to 1%. * The duty exemption is applicable for 4 years.
Strategic Value Chain Industries	・ TVA on the materials, equipments and services exempted. ・ Import duty on equipment and raw materials is exempted. ・ Special tariff on the electricity. * The duty exemption is applicable for 4 years.

Source: JICA Study Team based on the material prepared by ANAPI

(3) Restrictions on foreign investments

The areas where there are limitations on the entry of foreign investors are specified in the Investment Code (Loi n° 004/2002). Small-scale commercial activities and productions and services related to military activities are listed. Apart from these activities, investors are to be treated equally regardless of being domestic or foreign for granting incentives and protection of the rights. Foreign companies do not have limitations to participate in public procurement tendering at least in the legal framework.

It should, however, be noted that the entry of foreign investment into agriculture sector may face limitation due to limited access to the land concessions for agricultural use: the access to the land is limited only for Congolese nationals or investor whose majority is held by Congolese (the Farming Law, Loi n° 11/022 du 24 decembre 2011).

(4) Taxation and procedures

In the past legal entities doing business in the DRC were required to prepare proper accounting books and audited statutorily pursuant to the Congolese General Chart of Accounts, Plan Comptable Général Congolais. Starting with fiscal years in 2014 and all the years that follow since the nation joined OHADA in 2012, they shall meet the OHADA accounting rules and regulations. Each country is permitted to apply its own local rules regarding detailed enforcement regulations if not stipulated by OHADA, as long as they do not conflict with the overall policies of the OHADA legal system.

The tax authority, the Direction Générale des Impôts (DGI) consisting of Direction Générale des Douanes et Accises (DGA) and Direction Générale des Recettes Administratives, Judiciaires, Domaniales et de Participations (DGRAD) based on their area of jurisdiction, is under the Ministry of Finance as a competent authority and is authorized to oversee various tax-related matters (e.g., taxation, tax collection, refunds, and tax litigation). Although they do not exercise legislative power, there is some leeway for regional governments to decide tax rates on their own where they are not specified by law locally. Some authority for taxation and tax collection such as land and rental tax are delegated to regional governments. Main taxes levied on companies in DRC are shown below.

Table 6 Main tax burdens for companies

Tax	Rate (%)	Remarks
Corporate income tax	30, 35	The mining industry is subject to tax as prescribed in the Mining Code. For instance, in addition to the corporate income tax (rate: 30%), property tax and vehicle tax, which apply to materials and equipment, and tax on owners of rights to resources.
Branch office tax	35	
Withholding taxes:		
Dividends	20	10% for the mining industry
Interest	20	Tax exemption for the mining industry
Royalties	20	
Services	14	This withholding tax applies to payments for services provided to Congolese companies by foreign companies and individuals without a permanent establishment in DRC. The tax base is the gross amount of the applicable invoice.
Value-added tax (TVA)	16	This tax applies to various products and services when provided in or imported to DRC, not including duty-free articles.
Industrial promotion tax (TPI)	2	This tax is based on the total amount of the CIF values of imported raw materials plus customs tariff, and the sale price in DRC.
Taxes for employment and fees for social security		
Payroll tax	30	Fixed rate of 30% applies to Annual income exceeding CDF 22,956,000 Progressive tax rate of 0-40% to Annual income not exceeding CDF 22,956,000.
Foreign resident employee tax (IERE)	25	10% for the Mining industries
Contributions to Institut national de sécurité sociale (INSS)	-	Paid by employer: 9% of amount of compensation Paid by employee: 3.5% of amount of compensation

Tax	Rate (%)	Remarks
Contributions to Institut national de préparation professionnelle (INPP)	-	1-3% of amount of compensation
Contributions to Office National de l'Emploi (ONEM)	-	0.2% of amount of compensation

Tax	Rate (%)	Remarks
Main taxes and fees for imports		
Inspection fee (Frais de Cotrôle réglementaires á l'importation)	2% of CIF	Under the jurisdiction of OCC
Marine transport carriage Tax (impôt sur les marchandises importées par voie maritime)	0.59% of CIF	Under the jurisdiction of OGEFREM
Custom duty	0, 5, 10, 20% of CIF	Under the jurisdiction of DGDA
TVA	16% of CIF	
Precompte de l'impôt sur les bénéfices et profits (BIC)	2% of CIF	
Tax for industrial-boosting funds	2% of the sum of CIF and custom duties	Under the jurisdiction of FPI
Harbor loading and unloading fee[4]	Unknown[5]	Under the jurisdiction of SCPT
Items with export tax		
Coffee beans	1%	
Mineral resources or concentrate	5% or 10%	
Diamond	1.5% or 3%	
Petroleum, black pitch	10%	
Electricity	5%	
Wood (tax rate depends on unpeeled log and/or timber)	Free, 5%,or 10%	
Fresh water	5%	
Others		
Taxes determined by local governments	Decided by local government	Under the jurisdiction of local governments

Source: JICA Study Team based on various documents.

(5) Land Acquisition and Registration of Property

Land is the property of the state and it has exclusive, non-transferable and unlimited nature. Since

[4] In case of Matadi and Boma
[5] According to the interview to a logistics company, one 40-feet container costs 1,000-1,5000 USD.

land ownership right belongs to the state, individuals and companies only have right to use (usufruct) land. Under the law, “General Concession” is aimed at corporations and foreigners, and maximum 25 year concession (which is renewable) is allowed.

(6) Labor system

The distinguishing feature of the DRC’s labor system is its focus on protecting the rights of workers. In applying for labor permit, the authorities will send inspectors to verify the facts; in some cases the Ministry of Labor might withhold authorization if the company does not have good reason to need the labor. In addition, labor rules to be complied within the DRC are very strict with regard to dismissal of employees and, are usually beneficial to workers in legal disputes concerning employment regulations.

Foreign expatriates planning to work in the DRC must complete certain procedures such as obtaining a work permit from the Ministry of Labor and submitting the specified documents (e.g., application form, employer information, employment contract, certificate of employment) to the Immigration Administration. Types of available visas include standard resident visas (three years) for those employed in commerce and the professions (e.g., doctors and attorneys) and work visas (one to two years). In addition, employment of resident staff requires the employer to demonstrate that it cannot secure local personnel having the same levels of knowledge and experience. DRC has limits on the number of resident officers companies may employ, corresponding to their total numbers of employees in a company. It is estimated that foreign investors will need many representatives from headquarters in starting up a business, and requirements related to numbers of employees. The timing of transfer of responsibilities to local personnel is not applied strictly.

(7) Foreign Exchange and Remittance System

DRC has basically liberalized its foreign exchange system and money is freely convertible for any currency in terms of capital transaction and current transaction. In addition, as far as mining sector is concerned, according to the recent amendment of BCC regulation, exporters of mining products have to hold at least 40% of foreign currency earned by export proceeds at a bank account in DRC. As no limitation is imposed except for the above 40% amount, exporters can freely use the remaining amount for settlement of import of raw materials and capital goods. Furthermore, recently BCC has amended the above mentioned regulation to change remittance timing from within 30 days to 60 days after export transaction date (Article 32, Journal Officiel-28 mars 2014: La Reglementation du Change en RDC), which allows exporters to improve their cash flow since they used to have to transfer money before they collect proceeds from export transaction.

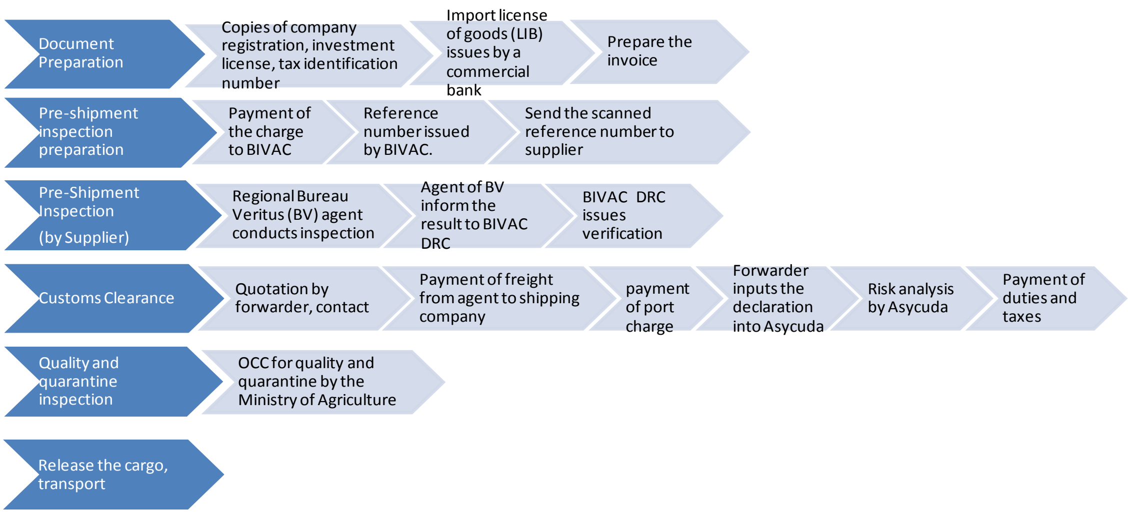
(8) Dissolution and Liquidation of A Company

As mentioned earlier, since its participation in OHADA, DRC has adopted Uniform Company Act which regulates dissolution and liquidation of corporations in Book 7 of Part 1. According to the

Article 200, seven events are listed as grounds for dissolution of a company within 3 years. However, liquidation information of actual cases adopting the above mentioned improved system is difficult to obtain because the Uniform Company Act and Uniform Act Organizing Collective Proceedings for Wiping Off Debts have been adopted just recently and that not many cases have occurred yet.

(9) Trade and Customs Clearance

The figure below shows the flows of administrative procedures required for importation into DRC. Two administrative procedures (Electronic Carg Tracking Note for Import (FERI) [6] and pre-shipment inspections) require special attention.



Source: JICA Study Team based on the interviews with logistics companies.

Figure 1-3 Flows of Administrative Procedures for Importation

The numbers and times required for administrative procedures of exportation are relatively limited comparing with the importation. However, exportation of some products may require additional procedures such as acquisition of export licenses and quality controls by OCC.

Table 7 Necessary Administrative Procedures for Exportation from DRC

Procedures	Tax and Charges	Responsible Agency
Export and Import Number	USD125	Ministry of Commerce
Import Authorization (for specific products)	-	Ministry of Economics
Phytosanitary certificates (agro, fisheries and forestry products)	-	Ministry of Agriculture
Export License (for specific products)	Decided by the ministries/ agencies in charge	Relevant agencies
Charges by OCC	1% of FOB value	OCC
FERI	-	OGREFEM

Source: JICA Study Team based on World Bank (2010), "Etude diagnostique sur l'integration du commerce" and interviews with logistics companies.

[6] FERI is usually taken place at a loading point after BIVAC DRC issues verification in a pre-shipment inspection shown in Figure 3.

(10) Infrastructure (electricity, logistics, and economic zones)

Costs of electricity and logistics are shown as below. The costs in DRC are more expensive than its neighboring countries.

Table 8 Cost and Time of Getting Electricity in DRC, African and Asian Countries

	DRC	Kenya	Cambodia	Vietnam	SSA
Number of procedures	6	4	4	6	5.4
Time (day)	56	110	179	59	130
Cost (% to per capita GDP)	15,247	732	2,336	1,323	4,076
Reliability of supply and transparency of tariffs index (0-8)	1	0	2	3	

Source: World Bank, Doing Business 2016
Note: The cost does not mean tariff, but the sum of costs borne by arranging supply contracts and other documents, purchasing equipment and the fee for installation

Table 9 International Transportation Cost for Import to Kinshasa and Goma

	Sea Transport		Inland Transport		
		Cost (USD)		Distance （Km）	Cost (USD)
Western DRC (Kinshasa)	Asia (China, India)-Matadi	8000～8500	Matadi-Kinshasa	330	2000 to 3250
	Belgium - Matadi	4500			
Eastern DRC (Goma）	Asia-Dar es Salaam*1	2500	Dar es Salaam-Goma	1570	5000
East Africa	Asia-Mombasa*2	2000	Kenya （Mombasa-Nairobi）	530	1000
			Uganda （Mombasa-Kampala）	930	2500

Note: Price of a 40ft container.
*1：Doubled the price of 20ft container.
*2：Data of 2014. The ocean transport to East Africa is the average of those from various locations in Asia.
Source: JICA Study Team based on the interview with companies in DRC. Data for Goma, Kenya and Uganda is based on Shippers Council of East Africa "East Africa Logistics Performance Survey "(2014 and 2015).

The Government plans to set up one SEZ per province and it is currently in preparation of setting up a SEZ in Maluku in the province of Kinshasa as a pilot case. The law on special economic zones (SEZ) stipulates the definition of SEZ, developers, and operators and specifies the items to be stated in the contract with each party but the procedures of selecting developers and operators (including criteria and flow of appraisal) are to be specified in the separate regulations. At the time of the Survey, the incentives and the scheme for development are not clarified.

5. Support from ANAPI

The organization in charge of investment promotion in DRC is ANAPI (Agence Nationale pour la Promotion des Investissements). The Investment Code established ANAPI under the Ministry of Planning in 2002. The purpose of ANAPI is to promote both domestic and foreign investments and to approve investment projects under the Investment Code[7]. The support that ANAPI provides with potential/existing investors is written as below.

[7] Loi n° 004/2002 du 21 fevrier 2002 portant code des investissements, Titre II, Section I, Article 4. ANAPI will be asked to provide its opinions when it comes to the investment projects in the sector of mining, finance, and insurance if necessary.

Table 10 Activities that ANAPI provides

	Activities of investment promotion agency	Implementation by ANAPI	ANAPI section in charge
Information service	Collecting and organizing information	Collecting legal and statistical information, and information about local partners	Sub-directorate of Communication
	Public relations	Developing website, preparing brochures, holding seminars	Sub-directorate of Communication
Liaison services	Support for market entry	Supporting tours of candidate sites, introducing local partners, setting up meetings with government agencies, company visits	Sub-directorate of Aftercare
	Support for starting up operation	Providing support with procedures to obtain permits, providing information on preferential tax treatment and procedures	Sub-directorate of Investment approval
	Follow-up	Monitoring of investments, accepting requests from investors	Sub-directorate of aftercare & strategy, research, and management energy

Source: JICA Study Team based on the documents from ANAPI

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Chapter 1 Outline of the Project and the Study

1.1 Background of the Project

The Fifth Tokyo International Conference on African Development (TICAD V) was held in June 2013. Active discussions took place on the direction of African development in line with the core themes of TICAD V, namely "Robust and Sustainable Economy," "Inclusive and Resilient Society" and "Peace and Stability". The Yokohama Action Plan, the roadmap for future African development, emphasized the importance of the private sector from the view of promoting economic growth. The plan also points out the importance of promoting investments in various sectors in addition to natural resources and accelerating employment, business linkage between local and foreign companies, and technical transfer. The government of Japan promised to assist African countries (e.g. dispatch advisors to ten countries).

In this regard, the Japan International Cooperation Agency (JICA) already dispatched experts to several countries. JICA also received requests to send experts from other countries, and it realized that it is necessary to provide a wide range of assistance for investment promotion from analysis on investment policies and investment climate (including legal frameworks) to expertise on business conducted by foreign companies.

Hence, the project was designed with two elements: i) Dispatch of the investment promotion experts in Kenya, Ghana, and Zambia, and ii) Data collection survey on investment promotion in Ethiopia, Rwanda, DRC, and Cameroon with the objectives listed below. This approach will make the project more inclusive and effective.

1.2 Objectives of the Project

Based on the background, the objectives of the project are as follows:

- To research investment climates, investment potential, and investment structure of the targeted countries and to conduct survey on the investment intention of foreign enterprises.
- To assist investment promotion of government agencies by dispatching Japanese experts to support developing their capacity, and to provide technical advice to improve the investment climate in the countries.

1.3 Implementation Structure of the Project

Based on the background and objectives, a data collection survey will be conducted and the issues on investment promotion will be identified in Ethiopia, Rwanda, Democratic Republic of Cong (hereinafter referred to as “DRC”), and Cameroon. The survey (especially to study investment climate and IPAs) will utilize a standardized approach (e.g. Policy Framework for Investment (PFI) made by the Organisation for Economic Co-operation and Development (OECD) and Doing Business Index created by the World Bank) so that the results can be compared among countries.

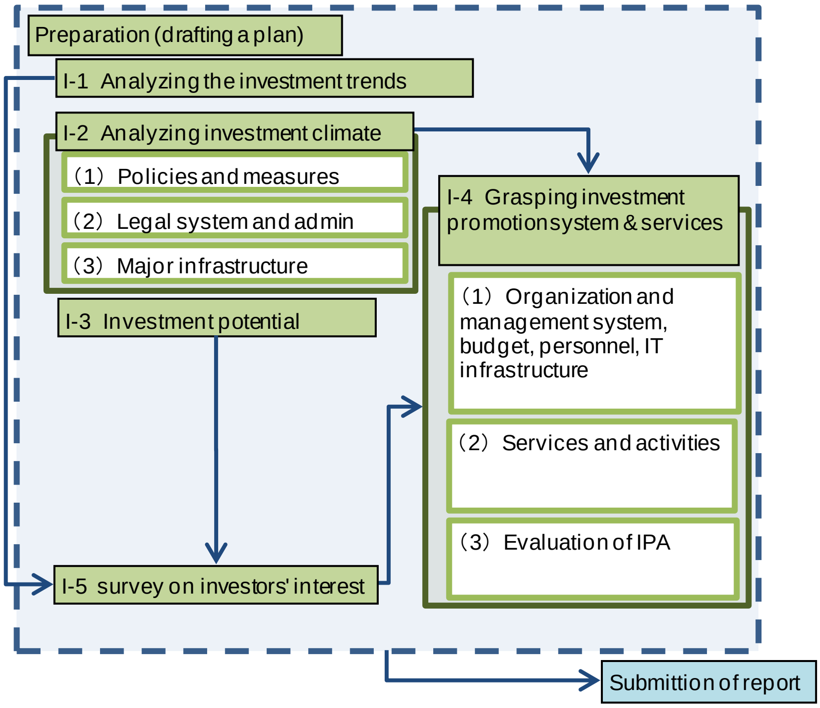


Figure 1-1 Workflow for Standardized Approach

For Ghana, Kenya, and Zambia, the expert in each country will conduct some pilot projects for technical transfer. The lessons learnt from the pilot projects will help JICA to formulate assistance to promote investments in these countries and other developing countries in Africa and in the world.

1.4 Scope and Methodology of the Study on Investment Promotion in DRC

DRC is endowed with rich natural resources and a population of 83 million. The country is still under development with insufficient transportation and energy infrastructure. The regulatory environment for private businesses is also insufficient; the World Bank's Doing Business 2016 ranked DRC as 184th out of 189 countries.

On the other hand, as a result of the gradual institutional development under the Constitution, the economy has been growing in the recent years: in 2015, GDP growth is projected to reach 9%.

Institutional development for business development and investment promotion has also exhibited progress in recent years. The establishment of the one-stop service (Guichet Unique pour Creation d'Entreprise: GUCE) is a notable example. Participating in the Organization for the Harmonization of Business Laws in Africa (OHADA) in 2012, various policies to improve business environment have been implemented: Deregulation, regulatory framework development for competition policy, protection of private property, and privatization are some examples of the efforts.

Therefore, it is important to understand the critical issues for foreign investment promotion as well as the progress and achievement so far and the needs of improvement vis-à-vis the vast investment potentials of the country.

The organization of this report is as follows. The economic background and the investment trends are overviewed in Chapter 2 and Chapter 3. Identified investment potentials are discussed in Chapter 4. The investment policy, its characteristics and the situation of implementation are analyzed in Chapter 5. Chapter 6 reviews key areas of investment climate from two aspects: their institutional and legal framework and the actual implementation or experiences of investors. Investment promotion agencies such as the key government functions for investment promotion are reviewed in Chapter 7 from the aspects of their institutional frameworks, organizational capacity, services and functions.

Chapter 2 Outline of the Democratic Republic of Congo

2.1 Land

The Democratic Republic of Congo (DRC) is located in the central Africa with the land size of 2.3 million km^2, which makes the country the second largest one in Africa following Algeria. Though the DRC faces the Atlantic Ocean but its ocean line is only 40 km[8]. The DRC is surrounded by nine countries; the Central Republic of Africa and the South Sudan in North, Uganda, Rwanda, Burundi, Tanzania in the West, Zambia in South, Angola and Congo Republic in East.

Source: UNHCR (2015) Democratic Republic of Congo New 26 Provincial Sub-Divisions

Figure 2-1 Map of the Democratic Republic of Congo

8 CIA World Factbook, 2015

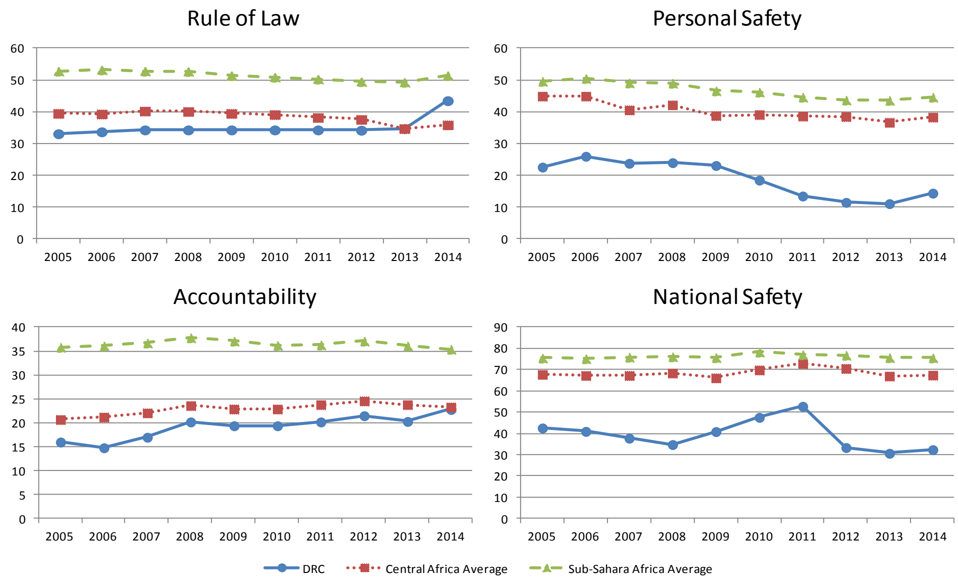
2.2 Political Situation

2.2.1 History

The DRC achieved independence from Belgium in 1960 as the Congo Republic, but soon experienced internal conflict. In 1965, Mobutu Sese Seko Kuku Ngbendu wa za Banga gained the power in a coup and became the president of the country. He continued in power for 32 years. After 1997, Loarance Kabira became the president and changed the name of the country to the Democratic Republic of Congo. In 2001, however, Loarance Kabira was assassinated and his son, Joseph Kabira, became his successor. In 2003, the zantei government was established and a new constitution was promulgated in 2006. Based on the constitution, presidential and general election was held and Joseph Kabira officially became the new president. In 2011, the president was re-elected and still is currently in power. The next presidential and general election is planned in October 2016. Joseph Kabira is not supposed to run the election this time because the constitution prohibits the president to be in power 3 times in a row. However, he still has not declared himself not to be in the election this time. Therefore, it is important to follow the news.

2.2.2 Governance

This section compares the governance in the DRC with the ones in both central Africa and the sub-Saharan Africa. According to the Mo Ibrahim index[9], security and rule of law are measured in terms rule of law, transparency, individual safety, and national safety. DRC is situated below the average of both central Africa and the Sub-Saharan Africa. In the last 2 years, however, it shows improvement.

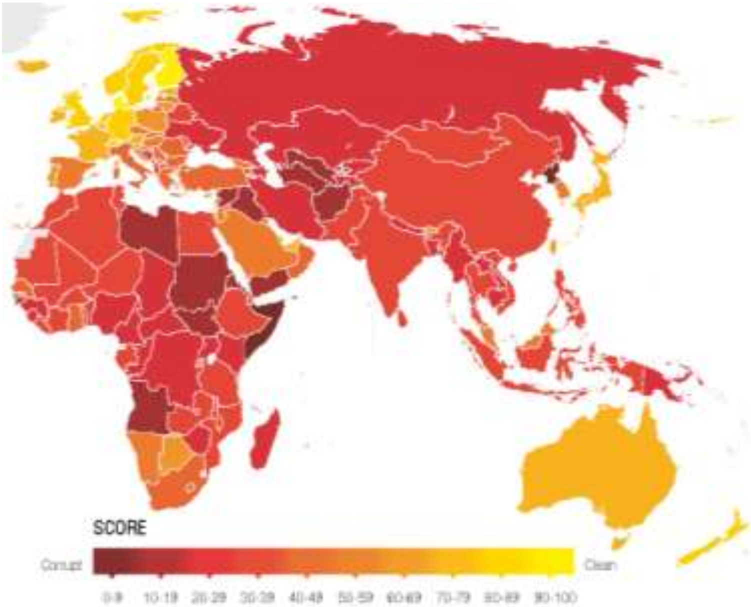


Source: Mo Ibrahim Foundation (2015) Ibrahim Index of African Governance

Figure 2-2 Comparison of Governance Indexes

[9] In addition to safety and rule of laws, Mo Ibrahim Index is measures participation and human rights, sustainable economic growth, and human development. This section only analyzes safety and role of laws.

The figure below shows the map of Asia and Africa colored in different level of red according to the corruption perception index measuring the level of corruption by government officers and politicians as of 2014. The rank of DRC is almost same as Myanmar and Cambodia[10], which shows the country still has issues in governance.



Source: Transparency International (2014) Corruption Perceptions Index

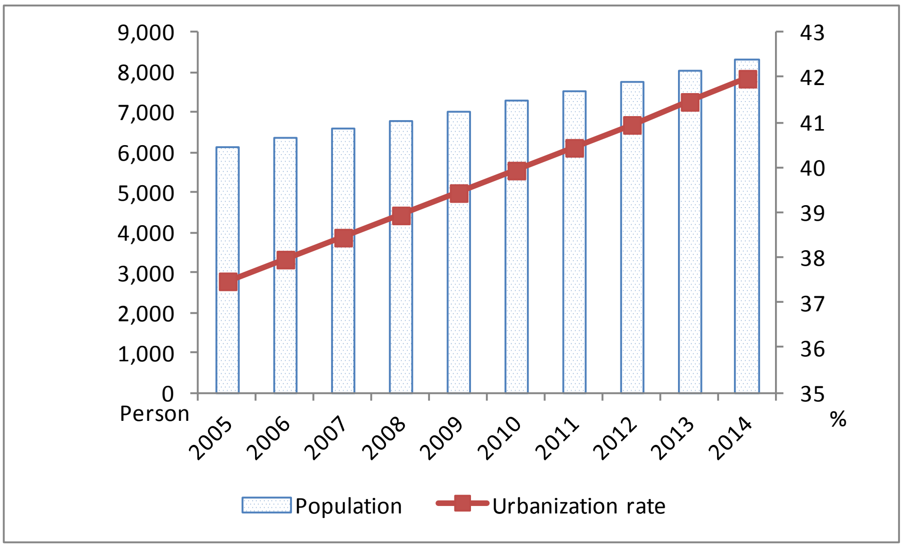
Figure 2-3 Corruption Perceptions Index (2014)

2.3 Social situation

2.3.1 Population

The population of DRC was about 61.6 million in 2005. The annual growth remains at the rate of approximately 3%, and population exceeded 80 million in 2013. With continued population growth, urbanization is accelerating. The population in urban areas accounted for 37% of the total in 2005, and increased to 42% in 2014. According to UNHABITAT, Central Africa had 11 cities with more than 0.75 million people as of 2011, out of which 5 are located in DRC (Kinshasa, Lubumbashi, Mbuji-Mayi, Kananga, and Kisangani in order of population).

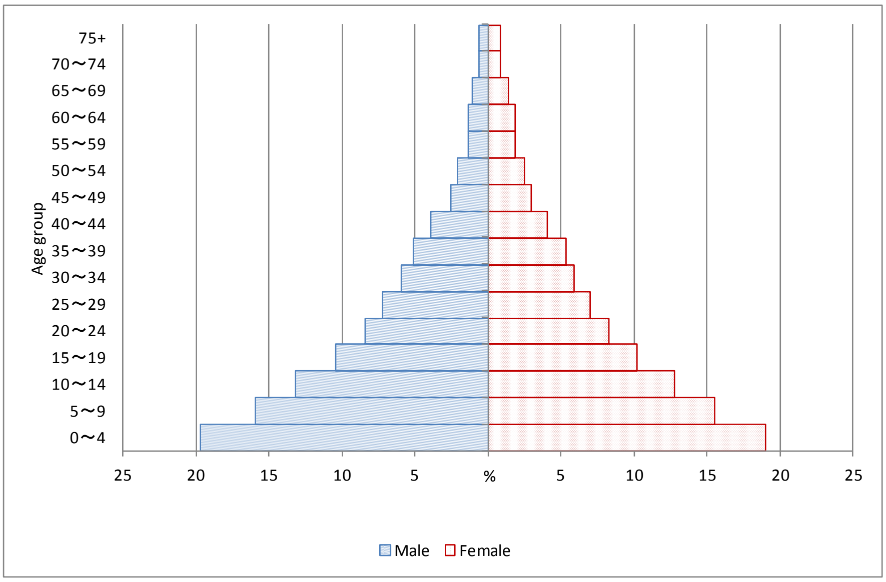
[10] Myanmar and Cambodia ranked 156, while DRC ranked 154 out of 174 in 2014.



Source: JICA Study Team based on INS (2014) Annuaire Statistique、WDI (World Bank)

Figure 2-4 Population and Urbanization

The population less than 19 years old accounts for more than 50% of the total, which clearly shows that DRC has a huge number of youths. While many countries in the South East Asia are expected to become aging societies by the 2020s[11], DRC can supply much labor in terms of demographics. On the other hand, it is necessary to expand the labor market and develop an employment policy in order to absorb increasing population.



Source: JICA Study Team based on INS (2014) Annuaire Statistique.

Figure 2-5 Population Pyramid (2014)

[11] JETRO (2015) JETRO Sensor, March

2.3.2 Health and Education Situation

The main statistics related to health and education are summarized below.

The life expectancy of DRC, which is 58.7 years old, is not much different from Sub-Saharan Africa (56.8 years old). However, the maternal mortality of DRC (846 per 100,000) is more than 1.5 times higher than Sub-Saharan Africa (474 per 100,000)[12].

The net primary education enrolment rate of both boys and girls exceeds 60% and the rate of boys and girls to continue to secondary school is approximately 70%. However, the secondary education completion rate is low and there is a large gap between boys and girls (boys: 35%, girls: 18%). The literacy rate of males is about 90% and the one of females is about 70%.

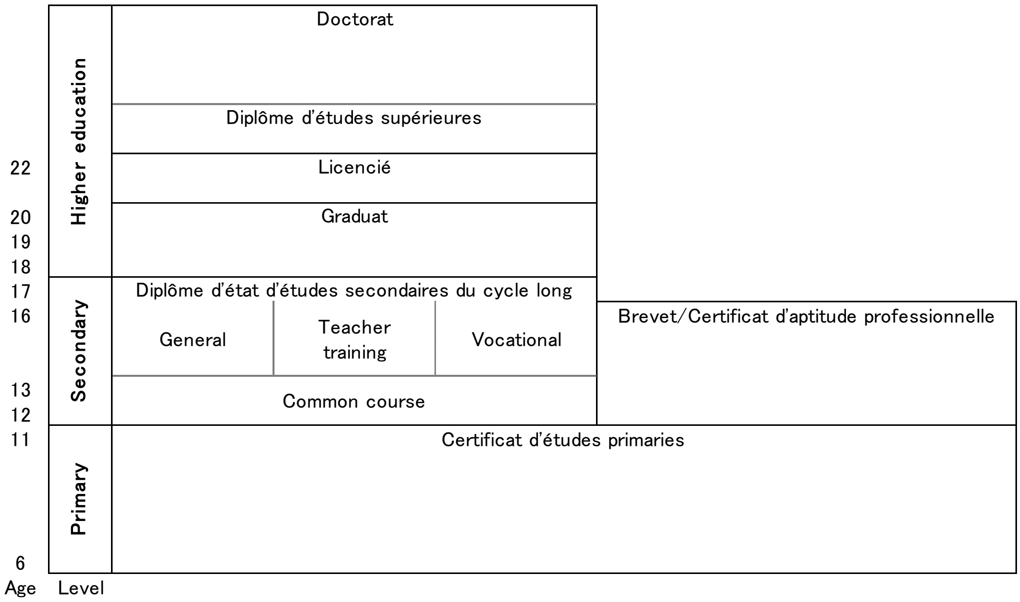
Table 2-1 Main Social Development Statistics

Index			Value		Year
1	Life expectancy		58.7	Years old	2014
2	Infant mortality rate	(per 1,000)	58	people	2013
3	Maternal mortality rate	(per 100,000)	846	People	2013
4	Net primary education enrollment rate	(boy)	69.4	%	2012
		(girl)	63.8	%	2012
5	the rate to continue to secondary school	(boy)	74.6	%	2012
		(girl)	68.0	%	2012
6	the secondary education completion rate	(boy)	35.2	%	2012
		(girl)	18.0	%	2012
7	Adult literacy rate	(male)	91.2	%	2012/13
		(female)	73.6	%	2012/13

Source: 1: UNDP (2015) Human Development Report, 2-8: INS (2014) Annuaire Statistique

The education system of DRC is categorized into primary education (6 years), secondary education (6 years), and higher education (5 years). Secondary education is further divided into first education course (2 years) and second education course (4 years). The first education course corresponds to junior high school in Japan and the second education course corresponds to high school in Japan[13]. Compulsory education is from 6 to 13 years old (from primary education to first education course in secondary education), but it is common that a child starts education later than 6 years old due to family issues.

[12] The life expectancy and maternal motality rate of Sub-Saharan Africa is from Human Develoment Report (2015).
[13] The first education course teaches general education and the second education course provides professional courses. Students can not have any certificates by completing only the first education course.



Source: JICA Study Team based on World Bank (2005) Education in the Democratic Republic of Congo, Ministry of Foreign Affairs (http://www.mofa.go.jp/mofaj/toko/world_school/07africa/infoC71800.html).
Remarks: the French words are the name of certificate after each course

Figure 2-6 Education System in DRC

Classes are taught in French, but local languages (Lingala (national language), Kicongo, Swahili, Chilba etc.) are usually used during primary education. Mathematics, language (reading and writing in French), music and physical education etc. are provided in primary education and chemistry, biology, geography/history courses; English will be added in secondary education.

In addition to formal education, DRC has national vocational training where there are various courses including electricity and electronics, construction and civil engineering, textiles, hotels and restaurants, etc[14].

2.4 Economic Situation

2.4.1 Gross Domestic Product (GDP)

The nominal GDP of DRC in 2014 is about 33.1 billion USD, which is half of Myanmar (64.3 billion USD in 2014) and twice that of Cambodia (15.4 billion USD in 2014). The country with the largest GDP in Sub-Saharan Africa is Nigeria (568.5 billion USD in 2014), followed by South Africa with 350.1 billion USD.

Table 2-2 Nominal GDP of Selected Countries

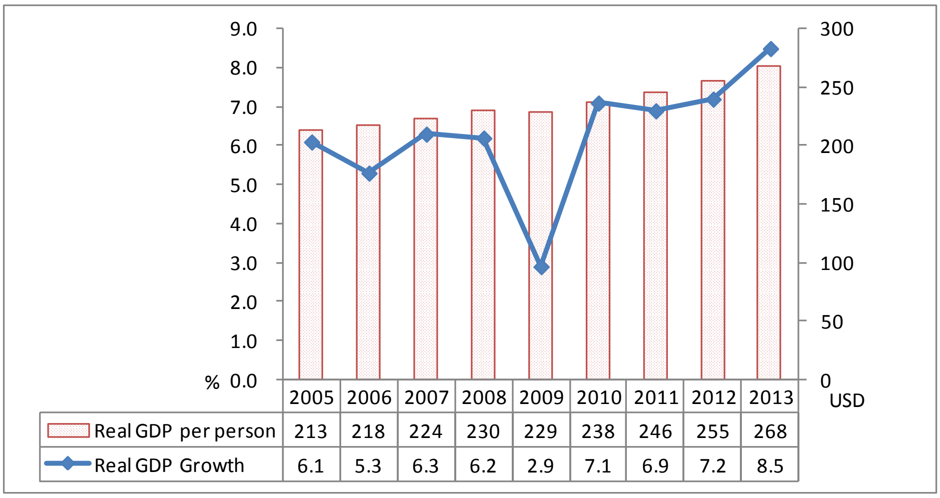
Country	Nominal GDP (Billion USD)
Nigeria	568.5
South Africa	350.1
Vietnam	171.2

[14] JICA provides expert dispatch, grant aid, and technical cooperation to the vocational training from 2011.

Country	Nominal GDP (Billion USD)
Bangladesh	150.0
Myanmar	64.3
Kenya	54.9
DRC	33.1
Zambia	26.8
Cambodia	15.4

Source: JICA Study Team based on World Bank, World Development Indicator (WDI)

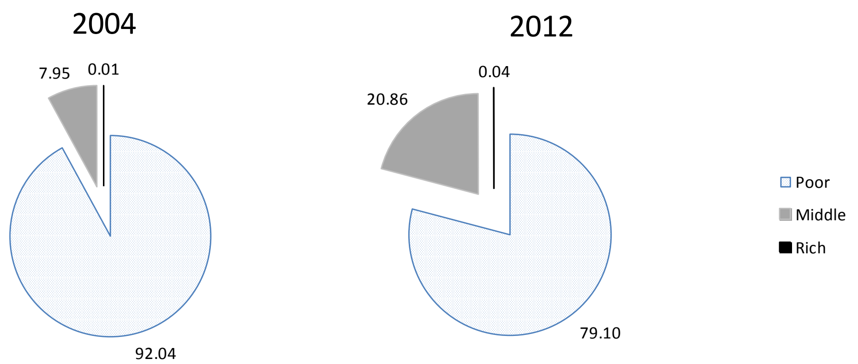
The real GDP (2005 base) of DRC in the last 9 years shows gradual increase from 6.1% in 2005 to 8.5% in 2013 except for 3% in 2009 due to the global financial crisis. The real GDP per capita is in increasing and reached 268 USD in 2013. However, this also shows that DRC is still a poor country with people living on less than 2 USD per day.



Source: Real GDP growth: Bank Centrale Congo (BCC) (2013) Rapport Annuel
Real GDP per capita: World Bank WDI
Remarks: 2005 base

Figure 2-7 Real GDP Growth and Real GDP per capita

The Africa Development Bank (AfDB) defines “poor” as living on less than 2 USD per day per person, “middle class” as living on between 2 and 20 USD per day per person, and “rich” as living on more than 20 USD per day per person. Following the definition, the middle class increased from 8% of the population in 2004 to 21% in 2014, while the share of the poor decreased from more than 90% to about 80% in 2014. Consumption will expand in the future due to the growth in population in general and the middle class in particular.

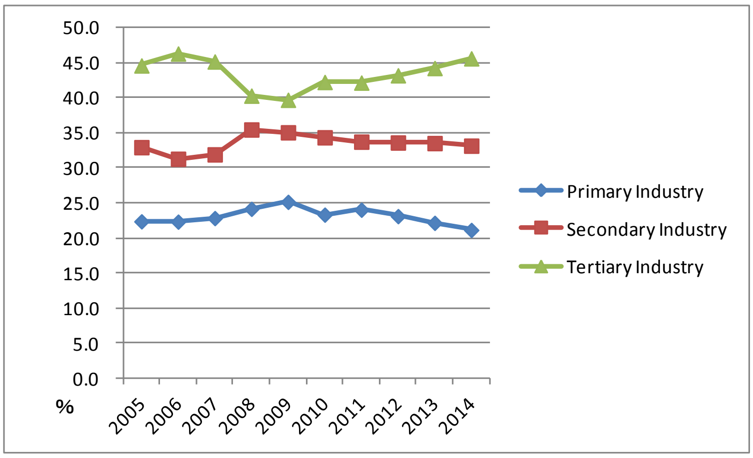


Source: JICA Study Team based on World Bank (http://iresearch.worldbank.org/PovcalNet/)

Figure 2-8 Share of Poor, Middle Class, and Rich

2.4.2 Industrial Structure

The share of the tertiary industry has been accounting for about 50% of total GDP over the last 10 years. The share decreased from 45% in 2007 to about 40% in 2008 and 2009 due to the global financial crisis, but the share has being increasing since 2009 and it accounts for 46% of the total GDP in 2014. On the other hand, the share of the secondary industry increased from 31% in 2006 to 36% in 2008, but has being decreasing since then. Also, the primary industry slightly increased from 22% in 2005 to 25% in 2009. Since then, however, the industry decreased a bit and became 21% in 2014.



Source: World Bank (2014) WDI

Figure 2-9 The Share of Real GDP by Industry

The breakdown of GDP shows that construction; commerce and public service have slightly increased their shares (by 0.4 percentage points, 1.1 percentage points, and 0.8 percentage points respectively). Mining increased by 14.2% percentage points and accounts for 25% of the total in 2014. It is worth noting, however, that the fall of mineral prices caused the mining sector to stagnate, which may slow the economic growth of DRC.

Table 2-3 Real GDP and Share by Industry

Industry	Value (billion CDF)			Share		
	2005	2013	% Change	2005年	2013年	Change
Agriculture, Forestry, Hunting, Fishing	1,223.6	1,623.8	33%	22.4%	18.1%	(−4.2%)
Mining	595.7	2,248.8	278%	10.9%	25.1%	(14.2%)
Manufacturing	930.1	990.0	6%	17.0%	11.1%	(−5.9%)
Electricity, Gas, Water	60.9	63.8	5%	1.1%	0.7%	(−0.4%)
Construction	215.9	390.9	81%	3.9%	4.4%	(0.4%)
Commerce	771.6	1,365.2	77%	14.1%	15.3%	(1.1%)
Transportation, Communication	783.9	1,130.9	44%	14.3%	12.6%	(−1.7%)
Other Services	732.0	835.3	14%	13.4%	9.3%	(−4.1%)
Public Services	173.6	355.3	105%	3.2%	4.0%	(0.8%)
FISIM	−20.4	−56.2	175%	−0.4%	−0.6%	(−0.3%)
Total	**5,466.9**	**8,947.9**	**64%**	**100.0%**	**100.0%**	**(0.0%)**

Source: BCC (2013) Rapport Annuel
Remarks: 2005 base

Box 2-1 Regional Characteristics

DRC, which is more than 6 times larger than Japan, has different economic areas by region due to poor infrastructure development in the country. This box compares the national economy with the ex-Katanga province[15].

The ex-Katanga province accounts for 26% of the national GDP, which means the province produces one quarter of the economy. Nationally, the share of agriculture (including forestry, hunting, and fishing) is the largest. However, the share of mining is about 60% in the ex-Katanga province, which clearly shows that the ex-Katanga province heavily depends on mining.

2010 (Nominal, billion CDF)	National		Ex-Katanga		Other provinces	
	Value	Share	Value	Share	Value	Share
Agriculture, Forestry, Hunting, Fishing	4,943.5	22.6%	1,065.3	18.7%	3,878.2	24.1%
Mining	4,001.8	18.3%	3,397.8	59.5%	604.0	3.7%
Manufacturing	3,742.3	17.1%	388.8	6.8%	3,353.5	20.8%
Electricity, Gas, Water	249.8	1.1%	71.1	1.2%	178.7	1.1%
Construction	931.5	4.3%	87.5	1.5%	844.0	5.2%
Commerce	2,456.2	11.3%	387.1	6.8%	2,069.1	12.8%
Transportation, Communication	2,470.4	11.3%	401.0	7.0%	2,069.4	12.8%
Other Services	1,756.1	8.0%	254.0	4.5%	1,502.1	9.3%
Public Services	1,478.7	6.8%	40.7	0.7%	1,438.0	8.9%
FISIM	−201.8	−0.9%	0.0	0.0%	−201.8	−1.3%
Total	**21,828.5**	**100.0%**	**5,706.3**	**100.0%**	**16,122.2**	**100.0%**

Source: BCC (2013) Rapport Annuel, Province du Katanga (2011) Plan Quinquennal de Croissance et de L'emploi
Remarks: The number of the ex-Katanga province is estimate.

According to the Résilience d'un Géant Africain (2012) by the World Bank, the share of agriculture in total GDP is the highest in many provinces, while the share of mining accounts for more than 50% in the ex-Katanga province, which is consistent with the result shown above.

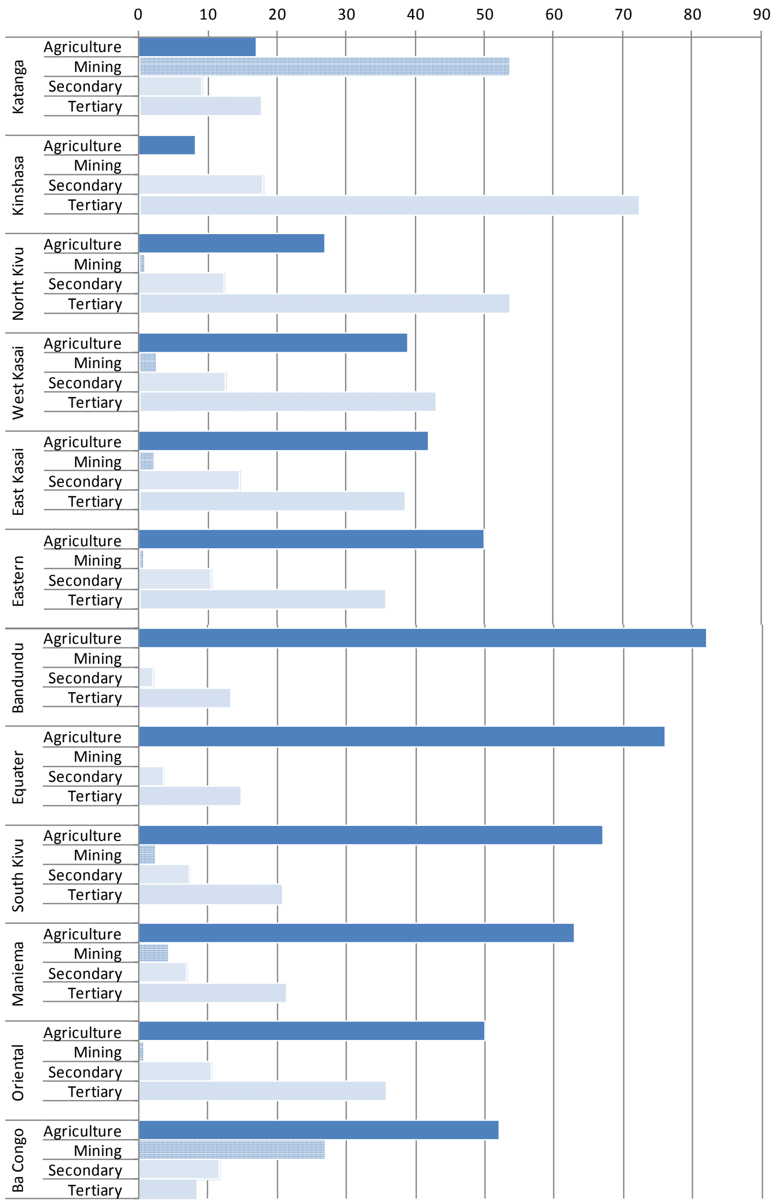
The share of tertiary industry is high not only in Kinshasa special province, in both Kasai provinces, and Eastern province, all of which have a city with more than 0.75 million people, but also North

[15] The number of provinces in DRC increased from 11 to 26 in October 2015. As a result, the ex-Katanga province divided into 4 different provinces, but this report uses the data of the ex-Katanga province as the regional GDP under the new provinces are not available. Also, the comparison is made only between national level and ex-Katanga province as the data of other provinces are not available.

Kivu province which has Gama, the city connecting to Rwanda. This shows the service sector is active in the areas with relatively high population. Especially, the share of tertiary industry in Kinshasa special province accounts for more than 70%.

More than 50% of GDP is agriculture in the other provinces. More than 80% and 70% of GDP is from agriculture in Bandundu and Equator provinces, respectively. It is worth noting that the share of secondary industry is less than 20% in all the provinces in DRC, which shows manufacturing sector is not very active in the country.

Unit: %

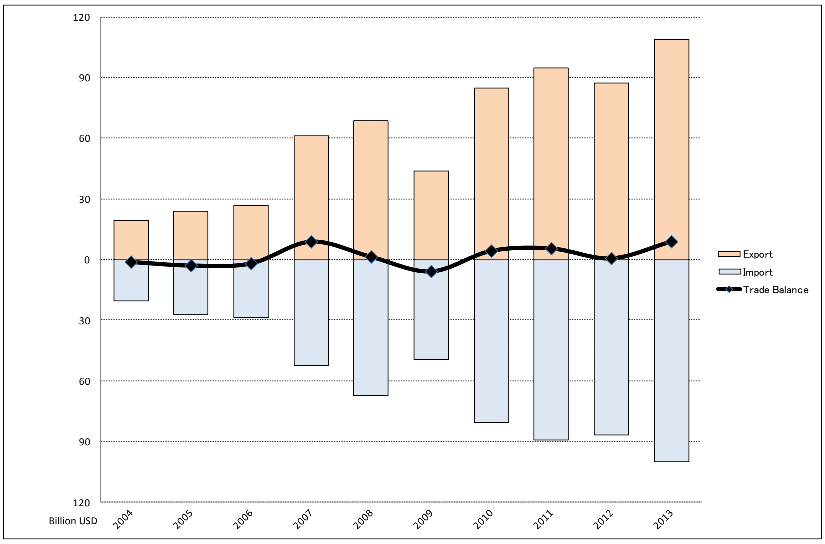


Source: World Bank (2012) Résilience d'un Géant Africain
Remarks: Name of the province is under the old constitution.

2.4.3 Trading Structure

The trade balance fluctuates along with the international mineral prices as 99% of the exports from DRC are mineral resources and hydrocarbons. To be specific, the trade balance picked up from 2005 to 2007 and from 2009 to 2011, which are the periods when the international mineral prices were growing. On the other hand, the trade balance went down from 2007 and DRC ran a trade deficit in 2009 when the international mineral prices were decreasing.

The sum of export and import amounts is generally growing so that the amount of export (10.9 billion USD) and of import (10.0 billion USD) exceeded 10 billion USD in 2013.



Source: BCC (2013 and 2014) Rapport Annuel
Remarks: FOB is used for both export and import. The value from 2011 to 2013 is projection.

Figure 2-10 Trade Balance

Source: InfoMine (http://www.infomine.com/chartsanddata/)

Figure 2-11 International Price of Copper and Cobalt

(1) Import and Export Trends by Product

The amount of exports in 2013 became 5.6 times larger than in 2004 (from 1.9 billion USD to 10.9 billion USD). Throughout the period, minerals and hydrocarbons accounted for more than 95%. The economy has been heavily dependent on minerals and hydrocarbons for the last 10 years, but the type of minerals changed over the years. For example, the share of diamonds which was a major export in 2004, decreased from 52.6% to 2.2%. Instead, the share of copper increased from 3% in 2004 to 68% in 2013. Besides minerals, the share of agriculture decreased from 2.8% to 1.9% and manufacturing products decreased from 1.2% to 0.4%, which shows that dependency on minerals and hydrocarbons is growing.

Table 2-4 Export by Product

(1) Value (million USD)

Item	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013
Mining and hydrocarbon	**1,861.2**	**2,318.6**	**2,577.8**	**5,924.5**	**6,624.1**	**4,259.0**	**8,334.7**	**9,335.5**	**8,622.1**	**10,649.8**
Copper	*57.8*	*117.7*	*469.0*	*2,039.8*	*2,458.2*	*1,656.0*	*3,106.8*	*4,103.4*	*4,530.5*	*7,395.8*
Cobalt	*411.6*	*584.9*	*523.7*	*2,310.2*	*2,541.0*	*1,717.9*	*3,793.3*	*3,692.9*	*2,660.4*	*1,828.0*
Zinc	*5.4*	*21.4*	*226.9*	*110.8*	*24.9*	*31.4*	*20.4*	*41.5*	*20.5*	*23.7*
Diamond	*1,020.6*	*1,157.6*	*875.1*	*827.5*	*674.5*	*234.8*	*310.5*	*364.6*	*293.2*	*245.3*
Gold	*0.0*	*0.0*	*2.9*	*4.0*	*6.9*	*6.1*	*5.9*	*10.1*	*102.9*	*149.0*
Cassiterite	*0.0*	*0.0*	*0.0*	*17.8*	*136.2*	*114.0*	*134.4*	*134.5*	*61.2*	*67.0*
Crude	*363.9*	*432.9*	*447.9*	*612.2*	*772.3*	*488.7*	*655.8*	*983.2*	*946.4*	*866.7*
Others	*1.9*	*4.1*	*32.4*	*2.2*	*10.1*	*10.1*	*307.6*	*5.4*	*6.9*	*74.4*
Agriculture	**55.1**	**58.2**	**97.0**	**164.3**	**178.5**	**77.6**	**111.0**	**105.8**	**91.4**	**210.9**
Coffee	*18.2*	*8.1*	*37.4*	*64.5*	*89.0*	*37.5*	*46.7*	*31.4*	*18.5*	*51.8*
Tea	*0.0*	*0.0*	*0.1*	*0.0*	*0.0*	*0.0*	*0.0*	*0.0*	*0.0*	*0.0*
Cacao	*2.9*	*0.9*	*0.2*	*2.1*	*0.2*	*0.0*	*0.0*	*0.2*	*0.1*	*38.9*
Rubber	*4.3*	*3.8*	*7.5*	*17.0*	*16.3*	*0.0*	*0.0*	*9.0*	*4.7*	*9.5*
Timber	*29.6*	*45.4*	*51.8*	*80.7*	*73.0*	*40.1*	*64.3*	*65.2*	*66.8*	*106.4*
Others	*0.0*	*0.0*	*0.0*	*0.0*	*0.0*	*0.0*	*0.0*	*0.0*	*1.4*	*4.3*
Manufacturing	**22.8**	**25.9**	**30.1**	**58.9**	**67.5**	**34.1**	**31.7**	**31.0**	**29.5**	**43.9**
Cement	*15.4*	*16.4*	*19.5*	*13.8*	*12.3*	*15.8*	*13.4*	*12.6*	*8.2*	*5.9*
Chemicals	*0.4*	*1.1*	*0.8*	*0.8*	*0.8*	*0.8*	*0.0*	*0.0*	*0.0*	*0.1*
Sugar processing	*6.4*	*7.4*	*7.7*	*7.8*	*7.8*	*7.8*	*0.0*	*0.0*	*0.0*	*0.0*
Others	*0.7*	*1.1*	*2.1*	*36.5*	*46.6*	*9.7*	*18.3*	*18.4*	*21.3*	*37.9*
Total	**1,939.1**	**2,402.7**	**2,705.0**	**6,147.7**	**6,870.0**	**4,370.8**	**8,477.4**	**9,472.3**	**8,743.0**	**10,904.6**

(2) Share (%)

Item	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013
Mining and hydrocarbon	**96.0%**	**96.5%**	**95.3%**	**96.4%**	**96.4%**	**97.4%**	**98.3%**	**98.6%**	**98.6%**	**97.7%**
Copper	*3.0%*	*4.9%*	*17.3%*	*33.2%*	*35.8%*	*37.9%*	*36.6%*	*43.3%*	*51.8%*	*67.8%*
Cobalt	*21.2%*	*24.3%*	*19.4%*	*37.6%*	*37.0%*	*39.3%*	*44.7%*	*39.0%*	*30.4%*	*16.8%*
Zinc	*0.3%*	*0.9%*	*8.4%*	*1.8%*	*0.4%*	*0.7%*	*0.2%*	*0.4%*	*0.2%*	*0.2%*
Diamond	*52.6%*	*48.2%*	*32.3%*	*13.5%*	*9.8%*	*5.4%*	*3.7%*	*3.8%*	*3.4%*	*2.2%*
Gold	*0.0%*	*0.0%*	*0.1%*	*0.1%*	*0.1%*	*0.1%*	*0.1%*	*0.1%*	*1.2%*	*1.4%*
Cassiterite	*0.0%*	*0.0%*	*0.0%*	*0.3%*	*2.0%*	*2.6%*	*1.6%*	*1.4%*	*0.7%*	*0.6%*
Crude	*18.8%*	*18.0%*	*16.6%*	*10.0%*	*11.2%*	*11.2%*	*7.7%*	*10.4%*	*10.8%*	*7.9%*
Others	*0.1%*	*0.2%*	*1.2%*	*0.0%*	*0.1%*	*0.2%*	*3.6%*	*0.1%*	*0.1%*	*0.7%*
Agriculture	**2.8%**	**2.4%**	**3.6%**	**2.7%**	**2.6%**	**1.8%**	**1.3%**	**1.1%**	**1.0%**	**1.9%**
Coffee	*0.9%*	*0.3%*	*1.4%*	*1.0%*	*1.3%*	*0.9%*	*0.6%*	*0.3%*	*0.2%*	*0.5%*
Tea	*0.0%*	*0.0%*	*0.0%*	*0.0%*	*0.0%*	*0.0%*	*0.0%*	*0.0%*	*0.0%*	*0.0%*
Cacao	*0.1%*	*0.0%*	*0.0%*	*0.0%*	*0.0%*	*0.0%*	*0.0%*	*0.0%*	*0.0%*	*0.4%*
Rubber	*0.2%*	*0.2%*	*0.3%*	*0.3%*	*0.2%*	*0.0%*	*0.0%*	*0.1%*	*0.1%*	*0.1%*
Timber	*1.5%*	*1.9%*	*1.9%*	*1.3%*	*1.1%*	*0.9%*	*0.8%*	*0.7%*	*0.8%*	*1.0%*
Others	*0.0%*	*0.0%*	*0.0%*	*0.0%*	*0.0%*	*0.0%*	*0.0%*	*0.0%*	*0.0%*	*0.0%*
Manufacturing	**1.2%**	**1.1%**	**1.1%**	**1.0%**	**1.0%**	**0.8%**	**0.4%**	**0.3%**	**0.3%**	**0.4%**
Cement	*0.8%*	*0.7%*	*0.7%*	*0.2%*	*0.2%*	*0.4%*	*0.2%*	*0.1%*	*0.1%*	*0.1%*
Chemicals	*0.0%*	*0.0%*	*0.0%*	*0.0%*	*0.0%*	*0.0%*	*0.0%*	*0.0%*	*0.0%*	*0.0%*
Sugar processing	*0.3%*	*0.3%*	*0.3%*	*0.1%*	*0.1%*	*0.2%*	*0.0%*	*0.0%*	*0.0%*	*0.0%*
Others	*0.0%*	*0.0%*	*0.1%*	*0.6%*	*0.7%*	*0.2%*	*0.2%*	*0.2%*	*0.2%*	*0.3%*
Total	**100.0%**	**100.0%**	**100.0%**	**100.0%**	**100.0%**	**100.0%**	**100.0%**	**100.0%**	**100.0%**	**100.0%**

Source: BCC (2013) Rapport Annuel
Remarks: FOB is used. 2011-2013 is projection

The imports to DRC in 2013 became 5 times larger than in 2004 (from 2.1 billion USD to 10.0 billion USD). The items imported fluctuate over time. The share of consumer goods, which were the largest share of the total import items in 2004, decreased from 46.3% in 2004 to 24.5% in 2013. Instead, the share of capital goods increased from 13% to 62%. It is worth noting that the share of capital goods for agriculture increased from 1.2% in 2004 to 11.4% in 2013. It can be said that DRC is trying to develop agriculture and manufacturing instead of depending on importing all the consumer goods.

Table 2-5 Import by Product

(1) Value (million USD)

Item	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013
Consumer goods	**949.5**	**1,139.7**	**1,001.1**	**1,307.4**	**1,450.7**	**1,303.8**	**1,342.4**	**2,024.1**	**1,871.4**	**2,449.1**
Food, beverages, Tobaccos	*565.9*	*679.3*	*596.6*	*779.2*	*864.6*	*777.1*	*800.1*	*1,174.5*	*1,100.8*	*1,440.6*
Textile, Garment	*23.7*	*28.5*	*25.0*	*32.7*	*36.3*	*32.6*	*33.6*	*56.3*	*145.5*	*190.4*
Non-durable consumer goods	*109.2*	*131.1*	*115.1*	*150.4*	*166.8*	*149.9*	*154.4*	*258.9*	*305.4*	*399.7*
Other consumer goods	*250.7*	*300.9*	*264.3*	*345.2*	*383.0*	*344.2*	*354.4*	*534.4*	*319.8*	*418.5*
Energy	**608.9**	**962.7**	**535.2**	**640.0**	**1,094.2**	**678.9**	**755.1**	**1,016.9**	**2,929.7**	**958.3**
Raw materials and intermediate goods	**227.1**	**252.6**	**149.0**	**170.5**	**306.8**	**203.4**	**235.3**	**360.9**	**775.4**	**369.2**
For food	*106.3*	*118.2*	*69.7*	*79.8*	*143.6*	*95.2*	*110.1*	*168.6*	*379.4*	*180.6*
For agriculture	*5.2*	*5.8*	*3.4*	*3.9*	*7.1*	*4.7*	*5.4*	*8.6*	*9.3*	*4.4*
Textile, leather, rubber	*26.1*	*29.0*	*17.1*	*19.6*	*35.3*	*23.4*	*27.1*	*36.5*	*14.0*	*6.6*
Chemical and stain	*52.0*	*57.8*	*34.1*	*39.0*	*70.3*	*46.6*	*53.9*	*68.0*	*173.4*	*82.6*
Construction materials	*11.4*	*12.6*	*7.4*	*8.5*	*15.3*	*10.2*	*11.8*	*40.2*	*98.3*	*46.8*
Minerals and metals	*17.0*	*18.9*	*11.2*	*12.8*	*23.0*	*15.3*	*17.6*	*26.2*	*43.2*	*20.6*
Others	*9.1*	*10.1*	*6.0*	*6.8*	*12.3*	*8.1*	*9.4*	*12.8*	*57.9*	*27.5*
Capital goods	**266.0**	**335.3**	**1,206.6**	**3,139.0**	**3,874.4**	**2,762.6**	**5,709.3**	**5,514.1**	**3,100.3**	**6,229.0**
Vehicles for agriculture	*23.9*	*30.2*	*108.6*	*282.5*	*348.7*	*248.6*	*513.8*	*494.1*	*568.9*	*1,142.9*
Vehicles for operation	*139.4*	*175.7*	*632.3*	*1,644.9*	*2,030.2*	*1,447.6*	*2,991.7*	*1,847.4*	*135.6*	*272.4*
Other transportation vehicles	*9.8*	*12.4*	*44.6*	*116.1*	*143.4*	*102.2*	*211.2*	*130.4*	*80.6*	*162.0*
Equipments for specific industries	*9.0*	*11.4*	*41.0*	*106.7*	*131.7*	*93.9*	*194.1*	*1,931.6*	*249.0*	*500.3*
Others	*83.8*	*105.6*	*380.1*	*988.8*	*1,220.4*	*870.2*	*1,798.4*	*1,110.6*	*2,066.3*	*4,151.4*
Total	**2,051.4**	**2,690.3**	**2,891.8**	**5,257.0**	**6,726.1**	**4,948.7**	**8,042.1**	**8,916.0**	**8,676.9**	**10,005.6**

(2) Share (%)

Item	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013
Consumer goods	**46.3%**	**42.4%**	**34.6%**	**24.9%**	**21.6%**	**26.3%**	**16.7%**	**22.7%**	**21.6%**	**24.5%**
Food, beverages, Tobaccos	*27.6%*	*25.2%*	*20.6%*	*14.8%*	*12.9%*	*15.7%*	*9.9%*	*13.2%*	*12.7%*	*14.4%*
Textile, Garment	*1.2%*	*1.1%*	*0.9%*	*0.6%*	*0.5%*	*0.7%*	*0.4%*	*0.6%*	*1.7%*	*1.9%*
Non-durable consumer goods	*5.3%*	*4.9%*	*4.0%*	*2.9%*	*2.5%*	*3.0%*	*1.9%*	*2.9%*	*3.5%*	*4.0%*
Other consumer goods	*12.2%*	*11.2%*	*9.1%*	*6.6%*	*5.7%*	*7.0%*	*4.4%*	*6.0%*	*3.7%*	*4.2%*
Energy	**29.7%**	**35.8%**	**18.5%**	**12.2%**	**16.3%**	**13.7%**	**9.4%**	**11.4%**	**33.8%**	**9.6%**
Raw materials and intermediate goods	**11.1%**	**9.4%**	**5.2%**	**3.2%**	**4.6%**	**4.1%**	**2.9%**	**4.0%**	**8.9%**	**3.7%**
For food	*5.2%*	*4.4%*	*2.4%*	*1.5%*	*2.1%*	*1.9%*	*1.4%*	*1.9%*	*4.4%*	*1.8%*
For agriculture	*0.3%*	*0.2%*	*0.1%*	*0.1%*	*0.1%*	*0.1%*	*0.1%*	*0.1%*	*0.1%*	*0.0%*
Textile, leather, rubber	*1.3%*	*1.1%*	*0.6%*	*0.4%*	*0.5%*	*0.5%*	*0.3%*	*0.4%*	*0.2%*	*0.1%*
Chemical and stain	*2.5%*	*2.1%*	*1.2%*	*0.7%*	*1.0%*	*0.9%*	*0.7%*	*0.8%*	*2.0%*	*0.8%*
Construction materials	*0.6%*	*0.5%*	*0.3%*	*0.2%*	*0.2%*	*0.2%*	*0.1%*	*0.5%*	*1.1%*	*0.5%*
Minerals and metals	*0.8%*	*0.7%*	*0.4%*	*0.2%*	*0.3%*	*0.3%*	*0.2%*	*0.3%*	*0.5%*	*0.2%*
Others	*0.4%*	*0.4%*	*0.2%*	*0.1%*	*0.2%*	*0.2%*	*0.1%*	*0.1%*	*0.7%*	*0.3%*
Capital goods	**13.0%**	**12.5%**	**41.7%**	**59.7%**	**57.6%**	**55.8%**	**71.0%**	**61.8%**	**35.7%**	**62.3%**
Vehicles for agriculture	*1.2%*	*1.1%*	*3.8%*	*5.4%*	*5.2%*	*5.0%*	*6.4%*	*5.5%*	*6.6%*	*11.4%*
Vehicles for operation	*6.8%*	*6.5%*	*21.9%*	*31.3%*	*30.2%*	*29.3%*	*37.2%*	*20.7%*	*1.6%*	*2.7%*
Other transportation vehicles	*0.5%*	*0.5%*	*1.5%*	*2.2%*	*2.1%*	*2.1%*	*2.6%*	*1.5%*	*0.9%*	*1.6%*
Equipments for specific industries	*0.4%*	*0.4%*	*1.4%*	*2.0%*	*2.0%*	*1.9%*	*2.4%*	*21.7%*	*2.9%*	*5.0%*
Others	*4.1%*	*3.9%*	*13.1%*	*18.8%*	*18.1%*	*17.6%*	*22.4%*	*12.5%*	*23.8%*	*41.5%*
Total	**100.0%**	**100.0%**	**100.0%**	**100.0%**	**100.0%**	**100.0%**	**100.0%**	**100.0%**	**100.0%**	**100.0%**

Source: BCC (2013) Rapport Annuel
Remarks: FOB. 2011-2013 is projection

(2) Import and Export by Country

Although both import and export values have been increasing over the last 10 years in DRC, the share of OECD countries has been decreasing in both sectors. However, the share of non-OECD countries is increasing (import: 33.6 percentage points, export: 32.2 percentage points between 2004 and 2013). The share of non-OECD countries accounts for more than 70% in both import and export sectors. Among OECD countries, the share of EU, North America, and Japan doesn't show much change, but the one of the other OECD countries significantly decreased from 30.1% to 1.1%, which shows that DRC looked for stronger connections with non-OECD countries than continuing with major OECD countries. DRC rapidly built a connection with China. The value of export to China alone became more than to EU in 2011 and exceeded the value of exports to all the OECD countries in 2013.

Table 2-6 Imports and Exports by Country

Export

(1) Value (million USD)

Region/Country	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013
OECD countries	**1,151.5**	**1,884.0**	**1,600.0**	**2,603.1**	**1,210.9**	**1,576.5**	**2,384.2**	**2,516.1**	**2,398.4**	**2,965.1**
EU countries	*864.8*	*1,443.6*	*1,430.4*	*2,143.0*	*936.2*	*1,230.0*	*1,884.5*	*1,971.4*	*1,887.2*	*2,307.1*
North America	*126.1*	*429.7*	*134.2*	*449.0*	*243.7*	*293.2*	*445.2*	*477.3*	*451.5*	*575.1*
Japan	*8.8*	*5.3*	*3.9*	*6.6*	*22.2*	*42.5*	*41.3*	*51.5*	*45.5*	*60.5*
Others	*151.8*	*5.4*	*31.5*	*4.5*	*8.8*	*10.8*	*13.2*	*16.0*	*14.3*	*22.4*
Non-OECD countries	**787.6**	**518.6**	**1,105.0**	**3,544.6**	**5,659.2**	**2,794.3**	**6,093.3**	**6,956.2**	**6,344.6**	**7,939.4**
China	-	-	-	-	*411.3*	*456.2*	*1,392.4*	*2,164.7*	*2,833.3*	*3,728.3*
Brazil	-	-	-	-	*93.7*	*76.4*	*193.5*	*203.5*	*193.0*	*254.1*
South Africa	-	-	-	-	*197.3*	*81.5*	*200.8*	*252.1*	*700.5*	*847.4*
Others	-	-	-	-	*4,956.9*	*2,180.2*	*4,306.6*	*4,335.8*	*2,617.7*	*3,109.6*
Total	**1,939.1**	**2,402.7**	**2,705.0**	**6,147.7**	**6,870.0**	**4,370.8**	**8,477.4**	**9,472.3**	**8,743.0**	**10,904.6**

(2) Share (%)

Region/Country	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013
OECD countries	**59.4%**	**78.4%**	**59.1%**	**42.3%**	**17.6%**	**36.1%**	**28.1%**	**26.6%**	**27.4%**	**27.2%**
EU countries	*44.6%*	*60.1%*	*52.9%*	*34.9%*	*13.6%*	*28.1%*	*22.2%*	*20.8%*	*21.6%*	*21.2%*
North America	*6.5%*	*17.9%*	*5.0%*	*7.3%*	*3.5%*	*6.7%*	*5.3%*	*5.0%*	*5.2%*	*5.3%*
Japan	*0.5%*	*0.2%*	*0.1%*	*0.1%*	*0.3%*	*1.0%*	*0.5%*	*0.5%*	*0.5%*	*0.6%*
Others	*7.8%*	*0.2%*	*1.2%*	*0.1%*	*0.1%*	*0.2%*	*0.2%*	*0.2%*	*0.2%*	*0.2%*
Non-OECD countries	**40.6%**	**21.6%**	**40.9%**	**57.7%**	**82.4%**	**63.9%**	**71.9%**	**73.4%**	**72.6%**	**72.8%**
China	-	-	-	-	*6.0%*	*10.4%*	*16.4%*	*22.9%*	*32.4%*	*34.2%*
Brazil	-	-	-	-	*1.4%*	*1.7%*	*2.3%*	*2.1%*	*2.2%*	*2.3%*
South Africa	-	-	-	-	*2.9%*	*1.9%*	*2.4%*	*2.7%*	*8.0%*	*7.8%*
Others	-	-	-	-	*72.2%*	*49.9%*	*50.8%*	*45.8%*	*29.9%*	*28.5%*
Total	**100.0%**	**100.0%**	**100.0%**	**100.0%**	**100.0%**	**100.0%**	**100.0%**	**100.0%**	**100.0%**	**100.0%**

Import

(1) Value (million USD)

Region/Country	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013
OECD countries	**1,285.0**	**1,885.0**	**1,237.4**	**1,935.4**	**1,299.1**	**1,802.6**	**2,324.2**	**2,466.5**	**2,456.7**	**2,826.6**
EU countries	*561.3*	*1,642.6*	*1,012.8*	*1,582.3*	*1,091.6*	*1,437.9*	*1,898.8*	*2,015.4*	*2,007.2*	*2,309.5*
North America	*84.9*	*145.0*	*124.3*	*236.5*	*152.3*	*207.8*	*272.3*	*285.9*	*286.3*	*329.4*
Japan	*11.5*	*31.8*	*33.2*	*37.1*	*40.6*	*53.6*	*63.2*	*71.2*	*68.9*	*79.3*
Others	*627.4*	*65.6*	*67.0*	*79.5*	*14.7*	*103.3*	*89.9*	*94.0*	*94.3*	*108.5*
Non-OECD countries	**789.9**	**805.4**	**1,654.5**	**3,321.6**	**5,426.9**	**3,146.1**	**5,717.8**	**6,449.5**	**6,220.2**	**7,178.9**
China	-	-	-	-	*1,150.7*	*646.7*	*1,193.9*	*1,825.5*	*1,543.6*	*2,221.4*
Brazil	-	-	-	-	*55.8*	*54.4*	*78.9*	*77.7*	*80.0*	*92.4*
South Africa	-	-	-	-	*108.9*	*111.6*	*130.5*	*148.5*	*1,226.3*	*1,193.1*
Others	-	-	-	-	*4,111.4*	*2,333.4*	*4,314.6*	*4,397.9*	*3,370.4*	*3,672.1*
Total	**2,074.9**	**2,690.3**	**2,891.8**	**5,257.0**	**6,726.1**	**4,948.8**	**8,042.1**	**8,916.0**	**8,676.9**	**10,005.6**

(2) Share (%)

Region/Country	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013
OECD countries	**61.9%**	**70.1%**	**42.8%**	**36.8%**	**19.3%**	**36.4%**	**28.9%**	**27.7%**	**28.3%**	**28.3%**
EU countries	*27.1%*	*61.1%*	*35.0%*	*30.1%*	*16.2%*	*29.1%*	*23.6%*	*22.6%*	*23.1%*	*23.1%*
North America	*4.1%*	*5.4%*	*4.3%*	*4.5%*	*2.3%*	*4.2%*	*3.4%*	*3.2%*	*3.3%*	*3.3%*
Japan	*0.6%*	*1.2%*	*1.1%*	*0.7%*	*0.6%*	*1.1%*	*0.8%*	*0.8%*	*0.8%*	*0.8%*
Others	*30.2%*	*2.4%*	*2.3%*	*1.5%*	*0.2%*	*2.1%*	*1.1%*	*1.1%*	*1.1%*	*1.1%*
Non-OECD countries	**38.1%**	**29.9%**	**57.2%**	**63.2%**	**80.7%**	**63.6%**	**71.1%**	**72.3%**	**71.7%**	**71.7%**
China	-	-	-	-	*17.1%*	*13.1%*	*14.8%*	*20.5%*	*17.8%*	*22.2%*
Brazil	-	-	-	-	*0.8%*	*1.1%*	*1.0%*	*0.9%*	*0.9%*	*0.9%*
South Africa	-	-	-	-	*1.6%*	*2.3%*	*1.6%*	*1.7%*	*14.1%*	*11.9%*
Others	-	-	-	-	*61.1%*	*47.2%*	*53.7%*	*49.3%*	*38.8%*	*36.7%*
Total	**100.0%**	**100.0%**	**100.0%**	**100.0%**	**100.0%**	**100.0%**	**100.0%**	**100.0%**	**100.0%**	**100.0%**

Source: BCC (2013) Rapport Annuel.
Remarks: FOB. 2011-2013 is projection. Data of non-OECD countries is not available before 2007.

2.4.4 Regional Economic Communities in Africa and DRC

The share of intra-Africa trade in both imports and exports remains at around 10%, while intra-America and intra-Asia are higher[16]. Therefore, African Union (AU), the largest regional organization in the world with 54 countries and territories in Africa[17], recognizes 8 regional economic communities (RECs) and promotes the free movement of people, goods, and money within the RECs. AU's ultimate goal is for Africa to be politically and economically integrated and to solve conflicts within the region.

Table 2-7 Progress of Regional Integration in RECs

Regional Ecoomic Community	Established year	No. of member countries	Free Trade	Custom Union	Common Market	Currency Union
○ Southern African Development Community: SADC	1992	15		Introduce		
East African Community: EAC	2000	5				
Economic Community of West African States: ECOWAS	1975	15			Considerin	
○ Common Market for Eastern and Southern Africa: COMESA	1994	19				
○ Economic Community of Central African States: ECCAS	1983	10				
Arab Maghreb Union: AMU	1989	5				
Community of Sahel-Saharan States: CEN-SAD	1998	29			No progress	
Intergovernmental Authority on Development: IGAD	1986	8				

Source: JICA Study Team based on AU (http://au.int/en/organs/recs), AfDB (2014) Tracking Africa's Progress in Figures
Legend: Dark gray cells mean "introduced (including partially introduced)", light gray cells mean "under consideration", and white cells mean" no progress". DRC is a member of RECs with "○".

In addition to the 8 RECs above, there is Economic Monetary Community of Central Africa (CMCCA[18]) consisting of Cameroon, Central African Republic, Congo Republic, Gabon, Republic of Equatorial Guinea, and Chad, which are former French colonies, in Central Africa; however, CMCCA is not officially recognized as REC by AU. All the member countries of EMCCA are the member of ECCAS.

As shown in Table 2-7, DRC is the member of ECCAS[19], COMESA[20], and SADC[21]. Although most member countries of each REC are trying to make the REC more integrated little by little, DRC does not tend to cooperate with them because the protection of its domestic industries is considered more

[16] The share of intra trade (export and import, respectively) in other regions is: ASEAN (26%, 23.5%); EU (61.8%, 56.3%); NAFTA (48.5%, 33.7%) (AfDB (2014) Tracking Africa's Progress in Figures)
[17] AU Includes "Sahara Arab Democratic Republic", which Japan does not recognize as a country. Morocco does not participate in AU.
[18] CEMAC (Communauté Économique et Monétaire de l'Afrique Centrale) in French.
[19] The member countries are 10 (Angola, Burundi, Cameroon, Central African Republic, Chad, Congo Republic, Republic of Equatorial Guinea, Gabon, Sao Tome and Principe, and DRC).
[20] The member countries are 19 (Burundi, Comoro, Djibouti, Egypt, Eretria, Ethiopia, Kenya, Libya, Madagascar, Malawi, Malicious, Rwanda, Seychelles, Sudan, Swaziland, Uganda, Zambia, Zimbabwe, and DRC). Participation of South Sudan is under consideration.
[21] The member countries are 15 (Angola, Botswana, Lesotho, Madagascar, Malawi, Malicious, Mozambique, Namibia, Seychelles, South Africa, Swaziland, Tanzania, Zambia, Zimbabwe, and DRC).

important.

Table 2-8 DRC's participation in RECs

RECs	Current situation	DRC's cooperation
ECCAS	Free Trade Area was established in 2004. Utilization of EMCCA to promote further integration has been under discussion since 2014[22].	DRC cooperates with EMCCA.
COMESA	Fourteen member countries[23] signed COMESA Free Trade Agreement in 2000. Customs Union was declared in 2009, but it is still under the process of deleting customs within COMESA.	As of 2014, DRC does not participate in FTA. Currently, DRC, with Ethiopia and Uganda, is preparing for joining the FTA
SADC	Negotiation on the decrease in customs within SADC for free trade started in 2001 and SADC Free Trade Area was established in 2008. Some member countries participated in South Africa Customs Union, but Customs Union among all the member countries are not agreed yet.	DRC, along with Angola and Sechelles, does not participate in SADC Free Trade Area.

Source: JICA Study Team based on AfDB (2014) Tracking Africa's Progress in Figures、BCC (2014) Rapport Annuel.

COMESA, SADC, in which DRC is a member, and EAC decided to make Tripartite Free Trade Area (TFTA) in order to improve living standard of people in Eastern and Southern Africa, to keep sustainable economic development to reduce poverty, and to accelerate the economic integration in the African continent. In June 2015, twenty-four countries[24] signed the declaration of establishment of TFTA and 16 of them[25] also signed the agreement, which led to the official establishment of TFTA. DRC signed both documents. TFTA aims to establish an African Free Trade Area by 2017.

In each REC, DRC is one of the largest countries in terms of land size and population, and keeps higher economic growth than the REC average. In particular, DRC accounts for half of the population in ECCAS. However, the nominal GDP per capita of DRC is less than half of the REC average.

Table 2-9 Basic Stastistics of REC and DRC

REC/Country	Land size (sq. km)	Population (thousand)	Nominal GDP (million USD)	Nominal GDP per capita (USD)	Real GDP growth (%)
ECCAS	6,522,500	158,286	257,754	1,719	4.8
COMESA	10,655,580	492,454	633,495	1,336	1.3

22 EMCCA already has common currency, parliament body, and court and now preparing for coordination of customs system among member countries and introduction of Generalized System of Preferences (GSP) for economic integration by 2025. Therefore, ECCAS would like to keep in line with EMCCA.
23 The signed countries are Egypt, Djibouti, Sudan, Kenya, Burundi, Rwanda, Madagascar, Malawi, Malicious, Zambia, Zimbabwe, Comoro, Libya, and Seychelles.
24 24 countries exclude Libya and Eritrea from the 26 countries which are a member of either COMESA, SADC, or EAC.
25 Angola, Burundi, Comoro, Dijibouti, Egypt, Kenya, Malawi, Namibia, Rwanda, Sechelles, Swaziland, Sudan, Tanzania, Uganda, Zimbabwe, and DRC.

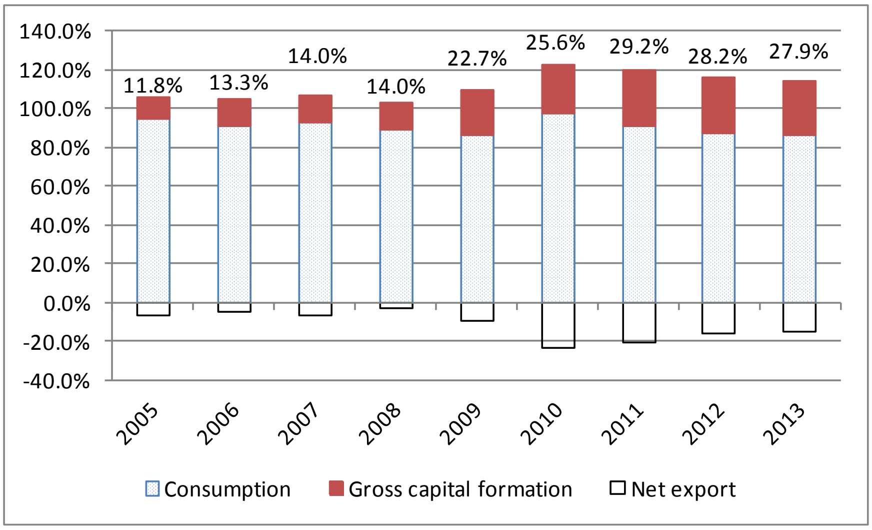
REC/Country	**Land size (sq. km)**	**Population (thousand)**	**Nominal GDP (million USD)**	**Nominal GDP per capita (USD)**	**Real GDP growth (%)**
SADC	9,645,405	312,712	678,782	2,315	3.0
DRC	2,267,050	74,877	35,754	515	8.8
Share of DRC in each REC					
ECCAS	34.8%	47.3%	13.9%	-	-
COMESA	21.3%	15.2%	5.6%	-	-
SADC	23.5%	23.9%	5.3%	-	-

Source: Land size: World Bank (2015) WDI, others: UNCTADstat (http://unctadstat.unctad.org/EN/Index.html)
Remarks: as of 2014. Nominal GDP, nominal GDP per capita, and real GDP growth are projection.

Chapter 3 Investment in DRC

3.1 Investment Trend

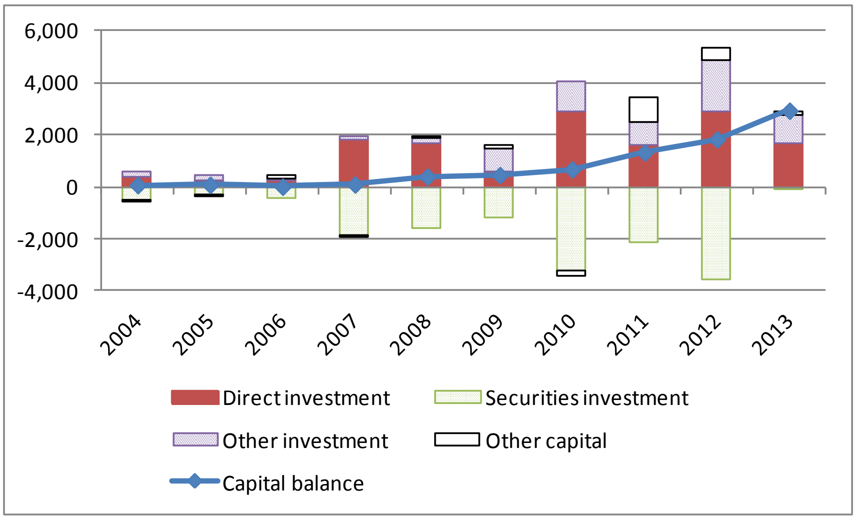
The share of gross capital formation in GDP has been growing over the past 10 years. It gradually increased from 11.8% in 2005 to 14.0% in 2008, and then the share in 2011 became twice that in 2008 (from 14.0% to 29.2%). The share declined a bit from 2011, but capital investment in DRC still accounts for around 30% of GDP.



Source: BCC (2013) Rapport Annuel。
Remarks: The percentage is the share of gross capital formation

Figure 3-1 Share of Gross Capital Formation in GDP

The capital account part in DRC's balance of payment has been a surplus over the last 10 years. The surplus of direct investment grew especially from 2007, which means there was inflow from other countries.

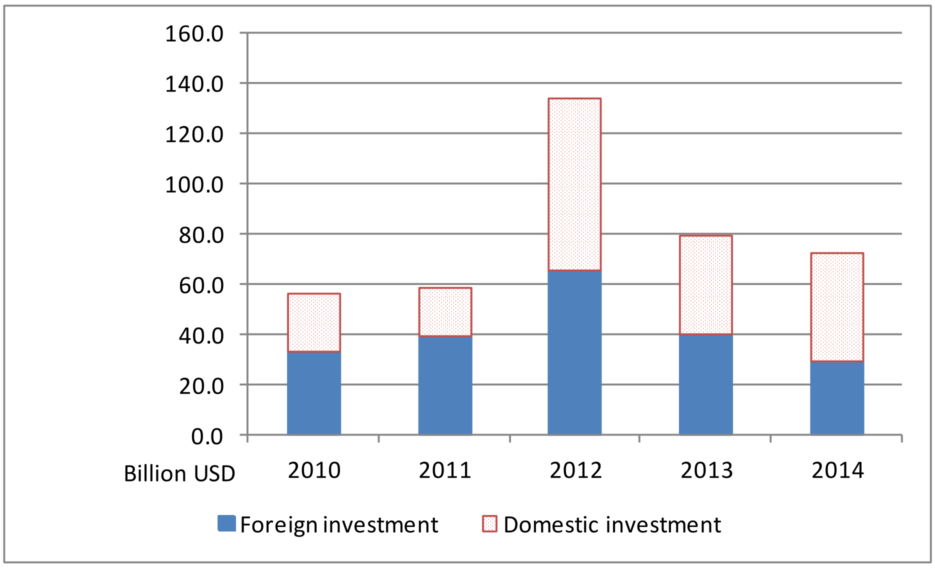


Source: BCC (2013) Rapport Annuel

Figure 3-2 Balance of Capital Account

According to the National Agency for Investment Promotion (Agence Nationale pour la Promotion des Investissements: ANAPI), both foreign and domestic investments[26] showed increased from 2010 and reached at 13.4 billion USD in 2012. However, both foreign and domestic investments started to decrease in 2013 and in 2014 became half of the amount of 2012, which was still more than the amount in 2010.

The share of foreign investment in total investment accounted for more than half until 2011. In 2012 and 2013, the share of foreign investment became almost same as that of domestic investment. The share of domestic investment accounted for about 60% in total investments in 2014.



Source: JICA Study Team based on the documents from ANAPI

Figure 3-3 Investment Trend by Type of Investment

The accumulated amount of investment (both foreign and domestic) over the last 5 years is 40.1 billion USD, 60% of which is mining sector, followed by service sector (24%) and manufacturing sector (11%). The rate of investment growth is different from year to year, but generally the share of mining sector is 50% of total investment. The agriculture sector has been under 5% of total investment, and this clearly shows the dependency on investment in mining sector.

The number of investment projects (both foreign and domestic excluding mining) in the last 5 years is 658. Among 658, 320 investments were in service sector and 279 investments in manufacturing sector, which means the two sectors account for more than 90% of the total investment. These two sectors have more than 50 projects every year, while agriculture and infrastructure sector has had less than 10 projects in the last 3 years.

[26] Direct investment means the investment through establishment of a subsidiary company and buying/merging with a local company. Income gain and capital gain is categorized as indirect investment. In DRC, investment made by a company with more than 10% of foreign capital is considered as a foreign investment (Code des investissements, Article 2) and ANAPI keep tracking of investment approved under the Investment code and the mining code only.

Table 3-1 Investment by Sector

Value: billion USD
Amount: number
Share: %

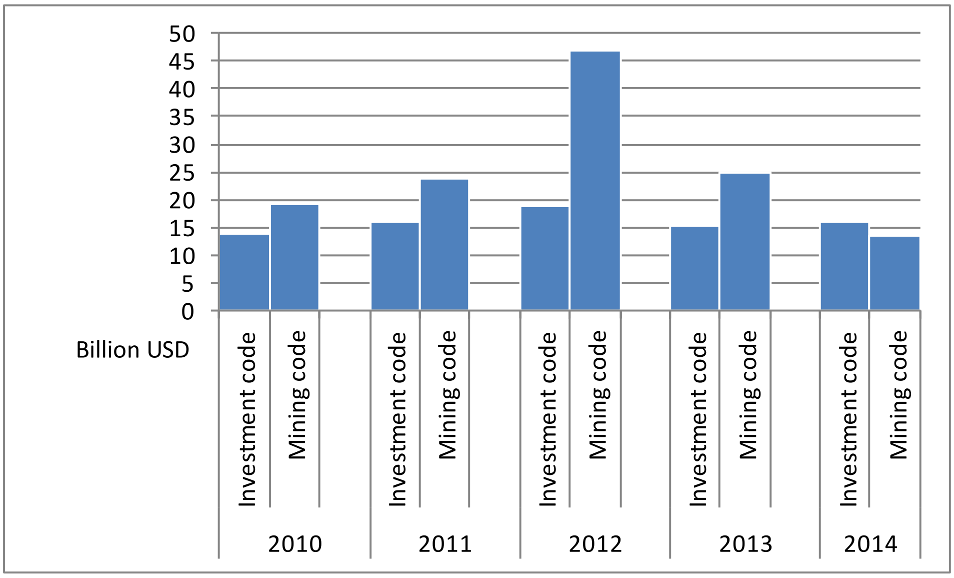
Sector	2010		2011		2012		2013		2014		Accumulation	
	Value	Project	Value	Project	Value	Project	Value	Project	Value	Project	Value	Project
Service	5.3 (9.3%)	52	20.5 (35.0%)	84	26.4 (19.7%)	72	18.9 (23.7%)	51	24.8 (34.2%)	61	95.9 (23.9%)	320
Manufacturing	9.3 (16.5%)	52	7.7 (13.1%)	54	12.5 (9.3%)	59	6.0 (7.5%)	53	9.2 (12.7%)	61	44.7 (11.1%)	279
Agriculture	3.2 (5.7%)	14	0.6 (1.0%)	12	0.5 (0.4%)	9	0.2 (0.3%)	5	0.1 (0.1%)	3	4.7 (1.2%)	43
Infrastructure	0.2 (0.4%)	3	1.0 (1.7%)	5	0.4 (0.3%)	2	0.5 (0.7%)	4	1.8 (2.5%)	2	3.9 (1.0%)	16
Mining	38.5 (68.1%)	–	28.8 (49.2%)	–	94.2 (70.3%)	–	54.1 (67.8%)	–	36.6 (50.5%)	–	252.2 (62.8%)	–
Total	**56.6** 100%	**121**	**58.6** 100%	**155**	**134.0** 100%	**142**	**79.8** 100%	**113**	**72.5** 100%	**127**	**401.3** 100%	**658**

Source: JICA Study Team based on the documents from ANAPI
Remarks: The share of mining sector can't be calculated as the data on the number of projects in the sector is not available.

3.2 Foreign Investment

3.2.1 Trends and Types of Foreign Investments

The value of foreign investments under the Investment Code increased from 2010 to 2012, and then decreased toward 2014. Overall, the investments are slightly increasing (from 1.3 billion USD in 2010 to 1.6 billion USD in 2014). The value of foreign investments under the Mining Code increased from 2010 to 2012 (1.9 billion USD in 201 and 4.7 billion USD in 2012), but experienced decrease after 2012 (1.3 billion in 2014). As a result, the value of foreign investment under the Investment Code exceeded that under the Mining Code for the first time in the last 5 years. The foreign investment in other sectors is gradually increasing.



Source: JICA Study Team based on the documents from ANAPI

Figure 3-4 Foreign and Domestic Investment by Law

3.3 Major Foreign Investment

With rich natural resources including timber and minerals, DRC has been receiving foreign companies in such resource related sectors. Especially, foreign mining companies invest in the ex-Katanga province, which has one of the world's leading mineral veins. Many mining companies concluded a concession contract with state-owned mining companies like GÉCAMINES[27].

Except for the sectors related to natural resources, foreign investment can be categorized into two types: the horizontal and vertical[28]. The horizontal type produces final goods in the same country where the investor sell products in order to reduce transportation cost. The vertical type produces labor-intensive products in the country where the labor cost is relatively low in order to reduce the production cost. The table below shows the characteristics of each investment type.

Table 3-2 Patterns of Companies' Expansion of Abroad

	Horizontal type	Vertical type
Advantage	Reduction of trade cost	Reduction of production cost
Typical destinations	Countries with large market size	Countries with low labor cost

Source: JICA Study Team based on RIET etc.

Except for the sectors related to natural resources, there are many foreign companies who are attracted by the size of the domestic market (horizontal type). As the government of DRC recently started to promote the development of infrastructure in the country, the construction sector seems to become more attractive than other sectors. Many foreign companies, especially from Belgium (which is the former colonial power of DRC) have been operating in DRC for a long time, even before 2006 when the domestic conflict was ended.

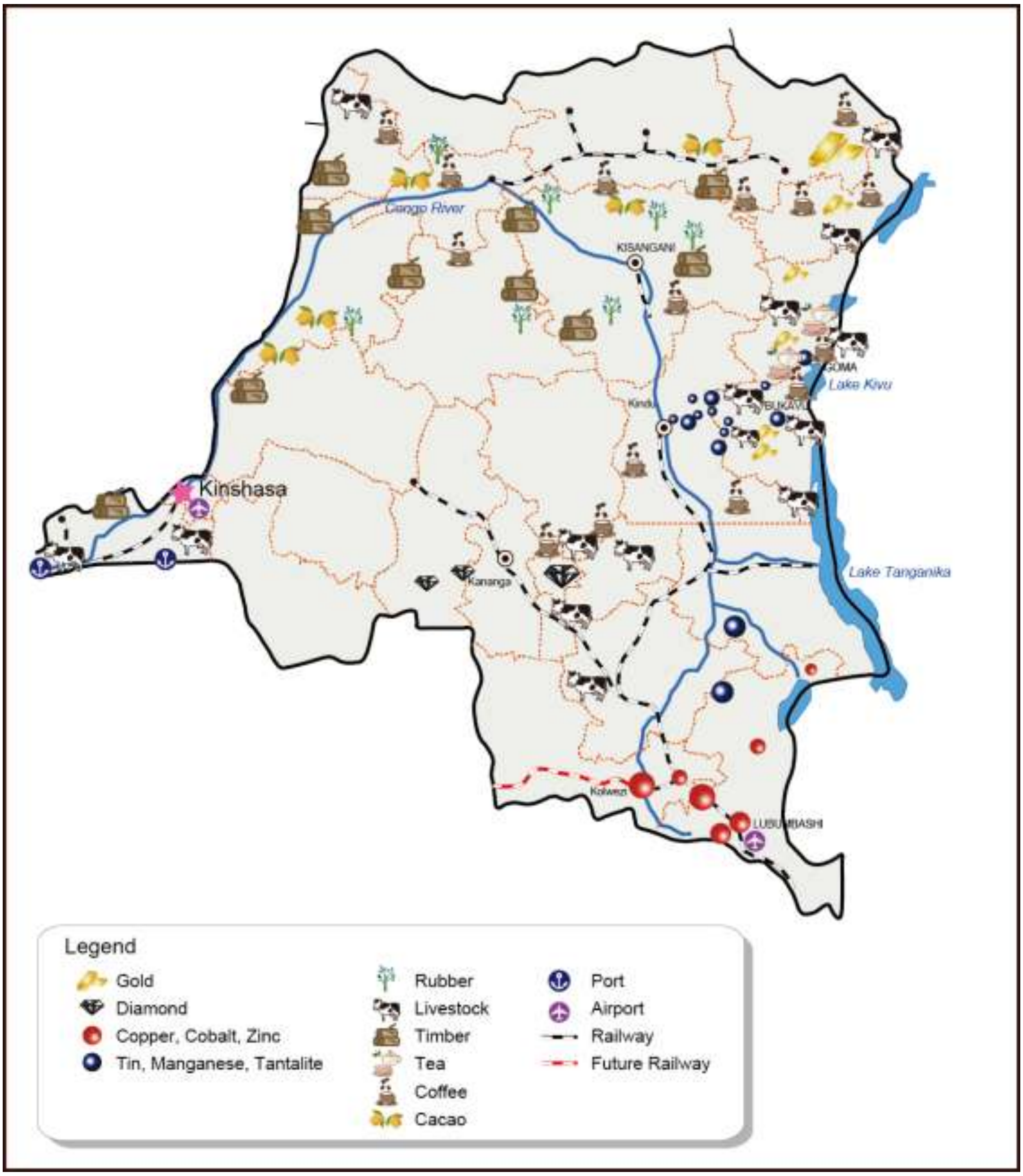
As explained in a later chapter, the business environment in DRC has not been well developed yet. The development requires not only high professional knowledge on logistics, taxation, and labor but also negotiation skills with relevant governmental authorities. As a result, there are companies (both domestic and foreign) which provide those specific skills and negotiate on behalf of companies newly coming to the country.

[27] Through state-owned companies, the DRC government owned all the mining licenses until 1995. Since 1996, the DRC government decided to let state-owned and private companies make a concession contract on mining management. (JOGMEC (2008) Investment Climate Survey in DRC).
[28] RIETI (2011) International Trade and Trade Policy Research, Cabinet (2012) Japanese Economy 2012-2013, Bank of Japan (2014) Companies' Expansion to Abroad and Earning Power etc.

Chapter 4 Investment Potentials in DRC

4.1 Current Situation of the Available Potential Sources of Investment

The production locations of major mineral, agro and forestry resources are as shown in the figure below.



Source: JICA Study Team based on BCC (2013) Rapport Annuel

Figure 4-1 Map of Mineral Resources and Agricultural Products in DRC

4.1.1 Potentials of Mineral Resources

(1) Mineral deposits

Mineral deposits in DRC are located in the vast area in Kivu in the Northeast area, Katanga in the Southeast, and Kasaï in the South. Katanga is rich in copper and cobalt as well as other minerals. Gold and diamond are produced in North and South Kivu, Maniema and Kasaï-Oriental and Kasaï-Occcidental. Hydrocarbon deposits are found not only in the Atlantic Ocean side but in the area around Rift Valley (notably Albertine Rift) in the east. The table below summarizes the current situation of the major mineral resources.

Table 4-1 Production Areas and Deposits of Major Mineral Resources in DRC

Types	Production Areas	Production Volume and the Characteristics	Deposits
Copper	Katanga	The amount of production of the ore is 0.99 million tons in 2015 (5.3% of the total amount of production in the world, 6th largest producer)	20 million tons (0.3% of the total amount of deposits in the world)
Cobalt	Katanga	The amount of production of the ore is 63 thousand tons in 2015 (50.8% of the total amount of production in the world, the largest producer)	3.4 million tons (48% of the total amount of deposits in the world)
Tantalite	North and South Kivu	The second largest producer and exporter of the ore (produced 200 tons and exported 16.7% of the world export market in 2014).	-
Diamond	Kasaï-Oriental, Kasaï-Occidental, Orientale	Extracted mainly by micro and small-scale miners. Miba (State-owned) and Banro (Canadian) are also operational. World second producer with 13 million carats.	150 million carats (21.4% of the total amount of deposits in the world)
Tin	Katanga, North Kivu, South Kivu	The exported volume in 2014 was 1.2% of the world export market and 10th largest.	-
Gold	Maniema, North Kivu, South Kivu	Extracted mainly by micro and small-scale miners.	-
Lead	Katanga, North Kivu, South Kivu, Maniema	Extracted mainly by micro and small-scale miners.	-
Manganese	Katanga	Extracted by Kisenge Manganese (State-owned, Western Katanga)	-
Hydrocarbon	Shores of the Atlantic Ocean	Producing 20 barrels per day	180 million barrels. Albertine Graben is also expected to have the deposits.

Source: JICA Study Team based on the data from US Geological Survey “Mineral Yearbook"(2012 and 2016), JOGMEG “Sekai no Kogyo no Susei 2015”(World Ming Trend 2015), Le Mond Diplomatique (July 2006) (http://mondediplo.com/)
Note: All the names of the provinces are in the old name before the reform.

(2) Structure of the Mining Sector

The mining sector comprises two conflicting groups of actors. One group consists of large multinationals and middle-sized companies, and the other of the numerous small-scale and artisanal minors. The former mainly produces copper and cobalt and other minerals. Large-scale multinationals such as Freeport and McMoran are operating in DRC[29]. Diamond and gold are produced mainly by the small-scale and artisanal miners[30].

(3) Regulation and Taxation of Mining and Quarrying

The media has reported that the Government of DRC is preparing for the review of the mining related laws in order to raise the rates of the mining tax and government interest. However, after the mineral price fell and the financial situations of mining companies deteriorated, the amendment bill was discarded[31].

International frameworks have been in place to mitigate the risk of causing governance problems through mineral exploitation. In order to manage public financial administration properly, DRC has been monitoring using the international monitoring framework, the Extraction Industry Transparency Initiative (EITI). However, DRC was not recognized as a compliant country in 2012 due to the insufficient reporting. It became recognized in 2014 after submitting the necessary reports.

The United States enacted Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010, HR1473 in 2010 in order to regulate the money flow related to the mineral resources and to avoid financing the conflict related actors. Based on the legislation, all listed companies are required to report to the US Security Exchange Commission (SEC) in terms of whether their use of minerals produced in DRC includes conflict minerals. EU also started mandatory certification of importers for the use of conflict minerals. OECD also established due diligence guidance.

(4) Potentials in the Mining Sector and the Problems

Mineral exploration and exploitation create various types of demands such as for machinery and equipment, food and consumer goods used by workers, and so on. As the smelting of ore requires chemicals, large-scale mining sites set up their own plants for production of necessary chemicals. In Lubumbashi, a cluster of businesses related to the mining sector have been set up such as distributers of machinery and equipment, construction, retail and specialized services such as staffing and human resource management, taxation, and logistics.

Problems are found in the fall of the price of mineral resources, shortage of the power necessary for

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29 Based on the information on the web-sites of various multinational companies.
30 World Bank (2010) "Etude diaqnostique sur l'litegration du commerce"
31 Website of the Chambre des Mine (http://chambredesminesrdc.com/congo-drops-plan-to-change-mining-code-after-industry-opposition/) . In the amendment bill, increase of royalty, profit tax, minimum government interests and establishing a new tax (windfall profit tax) were included (Source: JOGMEG (2015).

smelters, and regulatory burdens. The fall of the mineral price impacts on the industry as a whole. According to the interviews during the Survey, some auxiliary services are considering reducing the size of their operation. Lubumbasi area is suffering from chronic shortage of power especially during the daytime.

4.1.2 Agriculture and Livestock

(1) Overviews of the Production

Agricultural products produced in DRC are categorized as those utilized for domestic consumption as staples, for industrial use and for export. The majority of farming population is engaging in subsistent farming for staple foods. Various types of crops can be produced as the vast land provides different types of conditions suitable for different types of crops.

The volume of agricultural production decreased largely in 1990s. The table below shows the crops produced in DRC including those which have the track record of production from the colonial times.

Table 4-2 Major Agricultural Products in DRC and the Production Areas

	Products	Production areas	Characteristics
Staples	Cassava	Bas-Congo, Bandundu, Èquateur, Kasaï-Oriental, Kasaï-Occidental, Orientale	· Mostly subsistent farming. Produced in various areas in the country, but especially in Northwestern area. · Annual production amount: 1.5 million tons. · Possibility in higher value-addition by processing into cassava flour, starch, and Congolese dish. · Only the limited number of processors is in operation, i.e., limited number of large-scale consumers/outlets. The distribution network is also not well developed.
	Maize	Katanga, Kasaï-Oriental, Kasaï-Occidental, Bandundu	· Mostly subsistent farming. Important staple food in DRC. · Demands in both the domestic and regional markets are high. · In the domestic supply chain, large-scale millers in the urban centers have the power in the governance.
	Rice	Èquateur, Kasaï-Oriental, Kasaï-Occidental, Orientale, Maniema, North Kivu	· Mostly subsistent farming. Producing also in Bas-Congo, Bandundu and the suburbs of Kinshasa with irrigation. · Large demand in the domestic market for food and brewing beer. The distribution network is not well developed. · The milling technology is still low.
	Groundnuts	-	· Annual production amount: Less than 500 thousand tons. · Commercial processors are not available, hence difficult to export. Mainly consumed domestically.
	Dry legumes	North Kivu, SouthKivu, Katanga, Bas-Congo	· Annual production amount: 200 thousand tons. · Commercial processors are not available, hence difficult to export. Mainly consumed domestically.
	Plantain	Orientale	· Mostly subsistent farming.

	Products	Production areas	Characteristics
Industrial use and Export	Oil palm	Bas-Congo, Bandundu, Èquateur, Kasaï-Oriental, Kasaï-Occidental, Orientale	・ Produced in plantations or small-scale producers ・ Annual production amount: estimated that 500 thousand tons are produced by plantations, 300 thousands collected from naturally growing trees, and 200 thousands are by small-scale farmers. ・ Problems of quality found in the products by small-scale producers. Modern processing facilities are almost non-existing. ・ Modern plantations are located in the producing provinces sporadically.
Industrial use and export	Natural rubber	Bas-Congo, Èquateur, Bandundu, Orientale	・ About three quarters are exported and the rest are used for rubber tubes and shoes manufacturing. In 1970s, private plantations were confiscated and reduced the production. Small-scale farmers which used to produce for these plantations with contracts also disappeared.
	Coffee	Arabica: Kivu Robusta: Èquateur , Orientale, Bas-Congo, Kasaï-Oriental	・ Suitable areas for both Arabica and Robusta are found with good climatic conditions and soil types. ・ Mainly grown by small-scale farmers. As the productivity is low with problems of post-harvest handling, the selling price tends to be low. ・ Some large-scale plantations are available, but limited in number. They are typically high in productivity than small-scale farmers. ・ Processing is not done in rural areas: middlemen purchase the products. ・ Arabica from Kivu is exported mainly via Rwanda and Uganda. It is exported as Rwandan or Ugandan coffee after the processing. ・ Robusta is exported mainly through Kinshasa and Matadi.
	Cocoa	Bas Congo Èquateur (northern) Oriental	・ Have high potentials, but low productivity and quality with the problems of post-harvest handling. ・ Possible to produce also in Maniema, Bandundu, Kasaï (northern), and North Kivu. ・ Exported mainly through Kinshasa and Matadi.
	Other	Tea (Kivu), sugarcane	
Livestock	Dairy	Kivu Kinshasa Katanga Bas-Congo Kasaï-Oriental, North Kivu	・ Annual production of fresh milk: 5 million tons. ・ Limited distribution volume of processed products such as cheese, but sold and consumed in the urban centers near the production areas.

Source: JICA Study Team based on World Bank (2010)"Étude diagnostique sur l'integration du commerce"、UNDP (2014) "Etude de faisabilité d'un Programme africain d'aide aux fornisseur de l'agrobusiness (PAAFA) dans quatre provinces de la République democratique du Congo"
Note: All the names of the provinces are in the old name before the reform.

(2) Legal System and Promotion Policy for Agriculture

The legal framework for promoting farming and fish farming including investment incentives is provided by the Farming Law (Loi n° 11/022 du 24 decembre 2011 portant principles fondamentaux relatifs l'agriculture). The law, however, also limits the access of the land for foreign investors by setting a minimum share of Congolese nationals in the company in order to access to the land.

The Government of DRC issued the national agricultural investment plan (Plan national d'investissement agricole: PNIA) in 2013. It covered investment promotion, agricultural industrial parks (Parc-agroindustriel), special zones for agricultural investment. The first park has been established in Bukanga-Lonzo.

(3) Investment Potentials in Agriculture and the Problems

DRC only utilizes 10% of its vast endowed arable land, and the rest remains untouched[32]. As reviewed in section 2.4.3, DRC's food supply largely relies on imports. Based on the regional demand, the opportunity for food production is potentially high. The demand for export commodities such as coffee also show increasing trend in the international market.

On the other hand, a few issues exist. First, as explained about the legal system, the current Farming Law requires foreign investors to have Congolese partners who take the majority share in concession agreements. In general, irrigation, logistics and transportation infrastructure has not been fully laid out yet. The farmers may also encounter difficulty of procuring adequate and cheap agro-inputs such as seeds and seedlings and fertilizers. Since agronomic and farming knowledge has not been accumulated, recorded or made accessible from outsiders, it is difficult to plan adequately prior to the commencement of a project.

Apart from the underdeveloped storage and transportation infrastructure, it should also be noted that a special export duty is imposed on some export crops such as coffee.

4.1.3 Forestry Resources and REDD Plus

(1) Overview of Forestry Resources

The area covered with forest in DRC is 152.6 million ha, 67.3% of the total area. However, logging since 2000 has been pressurizing to reduce the area by 0.2% per annum, or 310,000 ha. While the speed of deforestation is still slow compared with the world average of 0.6% per annum, the large area impacted is alarming. The majority of the forests are natural forests, whereas only less than 0.1% is planted and maintained. The forest area extends from the northeastern to central areas of the country. The large width of the forest is located in Équateur, Orientale, North Kivu, and Bandundu[33]. A large portion of logged timbers is used as firewood. Timber is also raw wood. Generally, the degree of value addition is limited.

32 World Bank (2015) "Transport, Economic Growth and Deforestation in Democratic Republic of Congo: Spatial Analysis".
33 Japan Overseas Forestry Consultants Association (2013) Kunibetsu Report (DRC)(Country Report)

(2) Legal System to Regulate Utilization of Forestry Resources

Logging and utilization of the forestry resources are allowed by obtaining concession agreements based on the Forestry Code. For export of timber, an export license is necessary.

(3) Investment Potentials in Forestry and Related Areas and the Problems

The domestic demand for timber and its processed construction materials are expected to increase as the economy grows. In the mid- to long-term, production of plywood and furniture production may have potentials to be developed.

Forestry resources can be utilized for projects of resource conservation through Clean Development Mechanism (CDM). The framework for facilitating emission trading of greenhouse gases is on-going through Reducing Emissions from Deforestation and Forest Degradation in Developing Countries(REDD) and REDD Plus. As the population of DRC currently has limited access to clean and renewable energy, the potentials for REDD and REDD Plus are expected to be large.

4.1.4 Power Sector Development

It is estimated that DRC possesses the potential of generating 100,000 megawatts (MW) of hydropower, which is 23% of the total potential amount in the world[34]. DRC developed its power sector development plan to achieve universal access of electricity by 2030. It requires large investment. Apart from on-going large scale projects such as the rehabilitation of Inga, DRC has been promoting structural changes of the power sector by privatizing the state-owned company and by developing the legal framework allowing the private sector to operate in the power sector (see section 6.2.11 for details).

4.1.5 Tourism

Biodiversity and natural environment with various attractions are endowed with the potentials for tourism development. In DRC, 7 national parks and 57 national reserves are available with unique flora and fauna. However, the contribution of the industry to GDP is still limited[35]. These sites are largely left with insufficient accessibility due to the bad conditions of transport infrastructure and insecurity as well as underdeveloped accommodations.

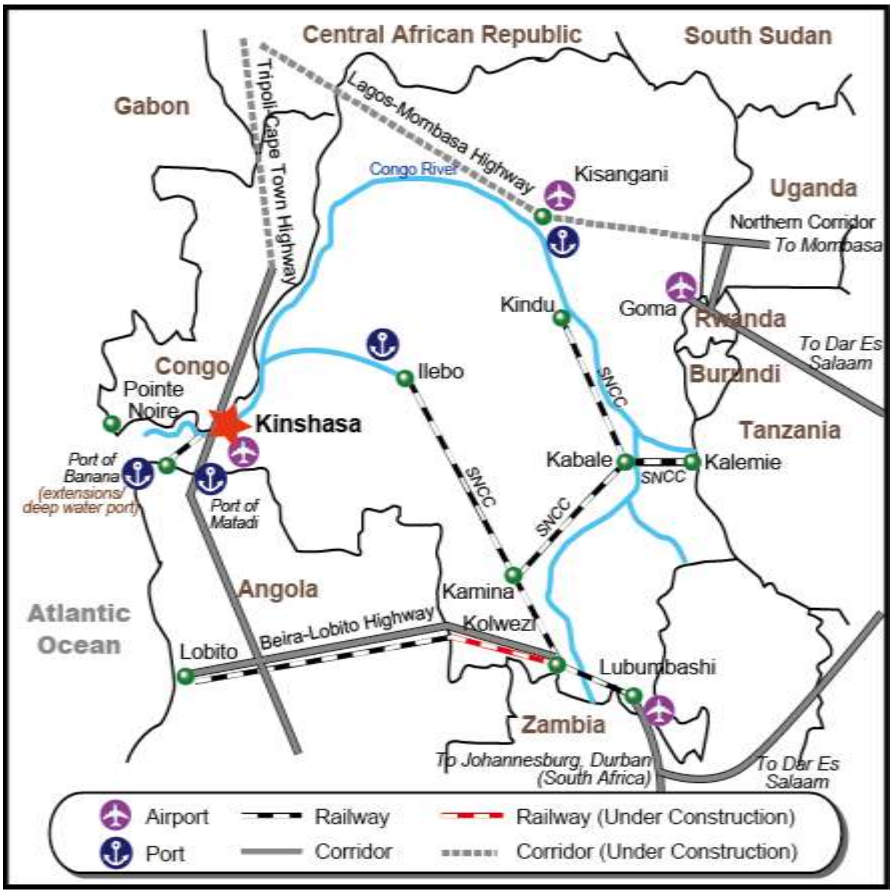
4.2 Logistics Networks and Market Access

4.2.1 Logistics Networks and Enterprise Agglomerations

The locations of major cities and the logistic corridors and networks are shown in the map below.

---

[34] Based on the information of ANAPI's materials for JICA STUDY TEAM.
[35] According to the World Travel and Tourism Council, tourism's contribution to GDP in 2014 is estimated as 2.1%. While the ratio will remain, the income from tourism is forcasted to increase by 5.9% per annum (World Travel and Tourism Council (2015) "Traven & Tourism: Economic Impact 2015").



Source: JICA Study Team based on the various sources.

Figure 4-1 Map of Transport Networks in DRC

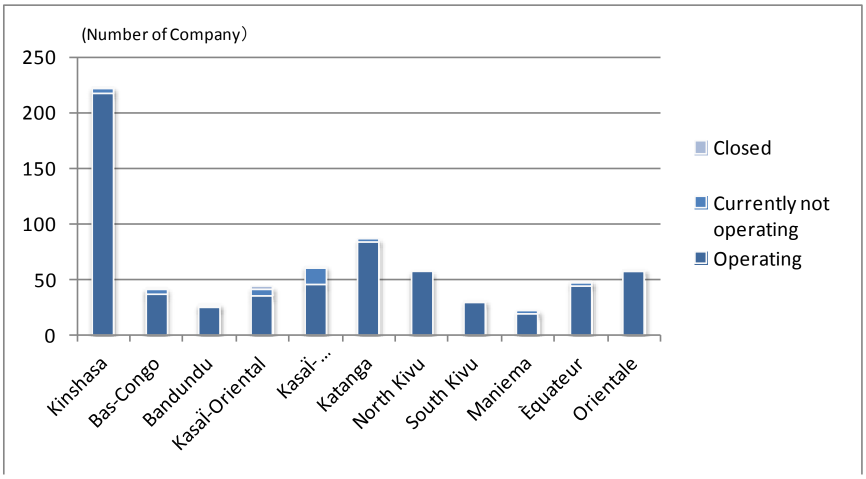
As explained more in section 6.2.10, the cost of transportation of goods between cities in the country is time-consuming and costly due to the insufficient transport infrastructure.

The largest proportion of enterprises is concentrated in Kinshasa. Due to the connectivity of transportation and the concentration of the population, the areas along the route from the Port of Matadi, the former area of Bas-Congo to Kinshasa as well as apart of Bandundu form an economic corridor. Likewise, a few cities in Katanga form a corridor-like area from the border with Zambia via Lubumbashi.

The available statistics only show the number of manufacturing enterprises without breakdown of the size and types of industries. Eastern and southern areas have more connectivity with SADC, COMESA and EAC countries[36]. North and South Kivu areas have more connectivity with the EAC markets, whereas Katanga area has stronger linkages with both EAC and SADC countries.

According to the statistics by the Ministry of Industry, one out of three currently operating enterprises is located in Kinshasa (33% of the total number). Katanga with the mining companies has 13% (see the figure below).

[36] A regional economic community formed by Tanzania, Kenya, Uganda, Rwanda, and Burundi.



Source: JICA Study Team based on the information of Ministere de l'industrie Cellue d'Etude et de Planification Industrielle "Plan decennal d'industriealisation de la Republic democrqtique du Congo"
Note: All the names of the provinces are in the old name before the reform.

Figure 4-2 Location of Manufacturing Enterprises in DRC

4.2.2 Preferential Treatment for Exports

DRC is granted some preferential treatment for exports to developed countries such as Everything But Arms (EBA) by EU and Generalized System of Preference (GSP).

(1) EU: Everything But Arms (EBA)

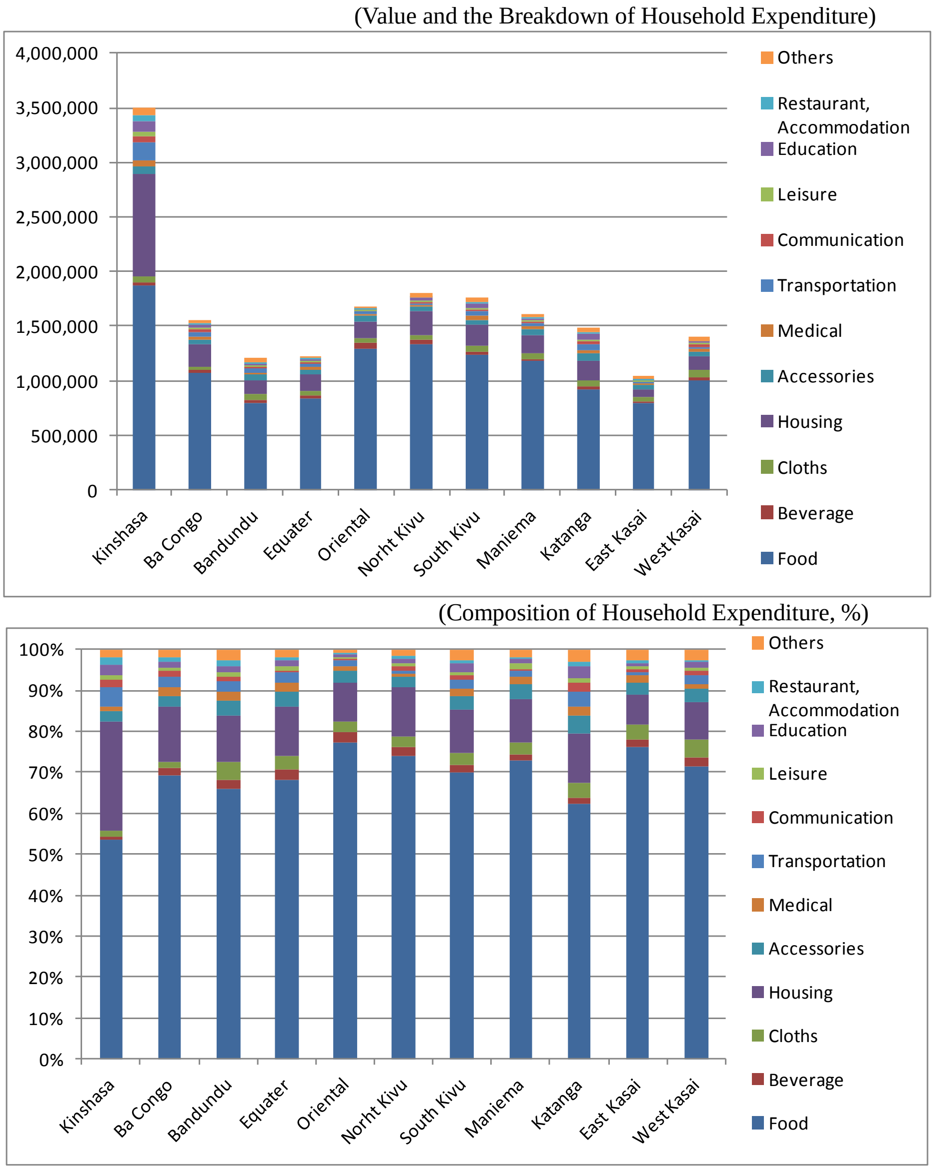
EBA allows duty and quota-free access of goods from least developed countries to EU in order to support their economic development. The number of eligible goods allowed for the duty and quota-free access are larger than GSP.

(2) Other Countries: Generalized System of Preference (GSP)

GSP allows access of selected goods from developing countries to developed countries at lower tariff rates than the ordinary ones. The system has some difference country to country: Japan provides more favorable treatment than GSP for least developed countries including DRC; Japan provides lower than GSP tariff or duty-free access of goods to the Japanese market.

4.2.3 Size of the Domestic Market and the Industry

DRC's market size with its relatively large population and high population growth rate is regarded as a potential market in the regional economy. The middle class increased its share in the population from 8% to 21% in last 10 years (see section 2.3). The demand for food, fast moving and durable consumer goods is expected to increase. Urbanization also continuously creates demand for infrastructure development, housing, public services, and health and education services. The amount of the household expenditure is highest in Kinshasa. While the majority of the expenditure is for food in other provinces, in Kinshasa the share of food expenditure is less, although still over 50%, and expenditure for housing is higher.



Source: JICA Study Team based on INS "Annuaire Statistique".

Figure 4-3 Household Expenditure and the Composition in Provinces in DRC

Rehabilitation and new development of various infrastructures has boosted demand in the construction sector. In 2006it dropped down to USD 7.4 million, but in 2013 the import of construction materials amounted to USD 46.8 million. 80% of the bodies implementing infrastructure development are governmental entities. In Central Africa, the demand for transportation (road) infrastructure is especially high[37]. Government-led infrastructure development continues to lead the demand for construction and the materials.

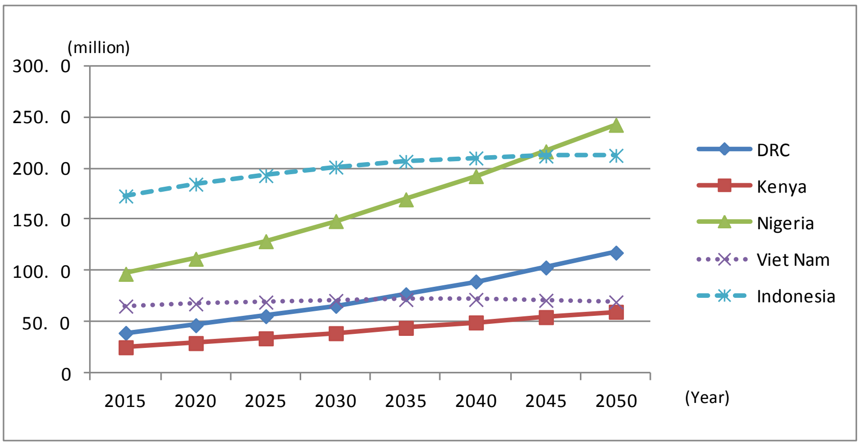
4.2.4 Cost Factors

(1) Labor Force and Wage

The population of productive age (population from 15 to 64 years old) is expected to increase

[37] Deloitte &Touche, "Deloitte in Africa:African Construction Report 2014"

steadily in the long run in DRC. Although it is still less than Nigeria, the most populous country in Africa, productive population of DRC is forecast to be more than Vietnam by around 2030.



Source: JICA Study Team based on the data of UN Population Division Department of Economic and Social Affairs

Figure 4-4 Projection of Population in Productive Age (2015-2050)

Labor wages in DRC are not low relative to other African and Asian countries considering its high per capita GDP level. They may partially be due to the large import of food and basic consumer goods which drive the consumer price higher. At the same time, the labor standard and the regulatory framework are favorable to labor (see Chapter 6), and this also affects the wage level.

Table 4-3 Labor Wage Rate in DRC and African and Asian Countries

Countries (Name of the Cities)	DRC*	Cote d'Ivoire (Abidjan)	Kenya (Nairobi)	Tanzania (Dar es Salaam)	Indonesia (Jakarta)	Myanmar (Yangon)
Wage of Workers (USD per mo.)	150～250	161～410	206～738	125	252	127

Source: DRC: Based on the interview with companies, other cities: JETRO.
Note: The data of DRC is the lowest wage level of workers and general employees (not managers).

(2) Cost and Quality of Power

Despite the low cost, the access to the electricity is limited in DRC. The grid coverage is limited to a few large cities and its surrounding areas. Moreover, the quality of the power supply is problematic (the details are explained in section 6.2.11). The table below compares power tariffs of DRC and other African and Asian countries.

Table 4-4 Power Tariff in DRC and African and Asian Countries

	DRC*	Cote d'Ivoire (Abidjan)	Kenya (Nairobi)	Tanzania (Dar es Salaam)	Indonesia (Jakarta)	Myanmar (Yangon)
Power tariff for industrial use (USD per kwh)	0.06	0.09～0.24	0.15	0.09	0.09	0.10～0.15

Source: SNEL for DRC and JETRO for other cities.
Note: The tariff for commercial/industrial use with 132kV. For Kenya, various surcharges are to be added in Fuel Cost Charge, Inflation Adjustment, Foreign Exchange Fluctuation Adjustment, and Energy Regulation Committee Levy and so on. The tariff of Ho-Chi-Minh is during the normal hour.

On the other hand, the quality of the power supply is problematic. According to the interviews with companies during the Survey, almost all the companies are equipped with their own generators regardless of the types of industry. The frequency of power outage was raised as a major problem for their business operation. The impact of the outage mentioned in the interview was damage caused to the machinery[38]. The data below is the power outage and its impact on the operation of enterprises in various countries including DRC.

Table 4-5 Power Outage and its Impact in DRC and African and Asian Countries

Country (year of survey)	Number of electrical outages in a typical month	Duration of a typical electrical outage (hours)	Losses due to electrical outages (% of annual sales)	Ratio of firms owning or sharing a generator (%)	Percentage of electricity covered by generator (%)
DRC (2013)	12.3	5.6	6.2	59.5	21.7
Kenya (2013)	6.3	5.6	5.6	57.4	7.8
Uganda (2013)	6.3	10.1	6.3	52.2	8.4
Zambia (2013)	5.2	2.8	5.5	27.3	4.4
Indonesia (2009)	0.9	3.3	0.6	6.4	1.7
Myanmar (2014)	12.5	10.3	2.1	75.7	16.8

Source: JICA Study Team based on World Bank Enterprise Survey.

The frequency of power outage in DRC is almost twice that of other African peer countries and almost the same as Myanmar which also has power issues as pointed by investors. The percentage of electricity covered by generator is the highest. Together with high fuel price, large dependency on generators is burdensome for businesses.

(3) Logistics

The cost and time consumed for both international and domestic transport requires improvement for increasing the competitiveness of DRC. Although the situation may vary depending on the areas, logistics is a major problem faced by business. It is caused by factors such as distance of many major cities from the major ports, insufficient port facilities both for sea and river transport, inland transportation cost, and damaged and unavailable road infrastructure. In addition to the cost and time borne by transport, the number of charges and taxes for import and export add the burden for businesses. The cost and the time vary from area to area depending on the origins or destinations of the cargos on international transport routes.

4.3 Identifying Investment Potentials

The table below lists the factors to be examined in order to identify the investment potentials. In DRC, investment potential varies depending on the difference in natural resource endowments,

[38] Based on the interviews with companies.

distribution of population, accessibility from outside areas including the surrounding countries and major ports.

Table 4-6 Factors Affecting Investment Potentials

<table>
<tr><th colspan="2">Factors</th><th>Situations</th><th>Potentials</th></tr>
<tr><td rowspan="2">Strengths</td><td>Factors of production and resource endowments</td><td>・ Natural resource endowment (mineral, forestry, hydropower, tourism)
・ Agronomic conditions for agriculture
・ Large number of young labor</td><td rowspan="4">・ Services related to mining industry
・ Forestry, production of construction materials (e.g., plywood), furniture manufacturing
・ Enterprises for CDM/REDD
・ Food processing, agro-processing for manufacturing of industrial inputs (e.g. starch)
・ Infrastructure development and operation
・ Construction and construction material production</td></tr>
<tr><td>Attractiveness as a market</td><td>・ Population
・ Poverty reduction and increase of middle-class population
・ Urbanization</td></tr>
<tr><td rowspan="3">Problems</td><td>Infrastructure</td><td>・ Power supply
・ Cost, time and connectivity of transport</td></tr>
<tr><td>Costs</td><td>・ The wage level is not very competitive compared with neighboring African and Asian countries.
・ Employers are required to pay for multiple taxes and levies for employees.
・ Cost of transport is high.</td></tr>
<tr><td>Regulatory environment</td><td>・ Regulatory mechanism contradicting the purpose of investment promotion (e.g., agriculture)
・ Tax burden and monitoring, harassment by regulatory bodies.</td><td>・ The areas which require high technology, but the current regulatory mechanism has not fully laid out the burden to the industry (e.g., management of infrastructure)</td></tr>
</table>

Source: JICA Study Team

The table below summarizes investment potentials in Kinshasa and Western Congo (Kinshasa-Matadi Corridor) and the Southeastern area (former Katanga Province) where the Survey mainly collected the information. As explained in the next chapter, however, the condition of DRC in terms of the necessary legal system and infrastructure development are still undergoing development. The analysis is done assuming such problems will be solved in the course of the time. The analysis also takes long-term prospects where industrial development will induce forward and backward linkages after establishing core industries.

Table 4-7 Analysis on the Investment Potential for Selected Regions

	Factors to show potentials	Investment Potentials
Western area	<u>Market situations</u> ・ Growth observed in Kinshasa and the metropolitan area ・ Growing demand in urban infrastructure development and housing <u>Logistics and access</u> ・ Available international ports	<u>Agriculture</u> ・ Agro-inputs and machinery (seeds and seedlings, fertilizer, agro-chemicals, irrigation and production machineries and equipment) <u>Manufacturing</u>

	Factors to show potentials	Investment Potentials
	・ Logistics hub functions of Kinshasa Power generation ・ The area is endowed with potentials for hydropower generation apart from the on-going projects in Inga and Zongo Existing industrial agglomeration ・ Relatively developed manufacturing and service sector run by the private sector together with government functions.	・ Agro-processing ・ Food and consumer goods ・ Construction materials Infrastructure development and construction ・ Urban infrastructure development ・ Housing ・ Transport service (operation and management) ・ Power generation, transmission and distribution Service ・ Various services in urban areas ・ Telecom and logistics services
Katanga area	Resource endowment and industrial agglomeration ・ Mineral resources and agglomeration of mining and mining-related enterprises ・ Relatively active private sector with the mining sector. Market ・ Population concentration with urban centers such as Lubumbasi, Likasi, Kolwezi and other major cities. ・ Demand of goods of mining workers and the population working for the related industries. Economic and logistics connectivity ・ Relatively good connection with SADC、EAC、and COMESA countries ・ Access to inputs and technology of various industries through gradual development of trade between surrounding countries. Agricultural development ・ Climatic condition which enables cultivation of crops such as maize which are in demand in neighboring countries.	Mining and the related industries ・ Mining and the related service industries. ・ Inputs and equipments used for mining and the primary processing. ・ Infrastructure development Agriculture ・ Agro-inputs and machinery (seeds and seedlings, fertilizer, agro-chemicals, irrigation and other agro-machinery). Manufacturing ・ Agro-processing ・ Food and consumer goods ・ Construction materials. Infrastructure development, construction and operation ・ Urban infrastructure development and construction

Source: JICA Study Team

4.3.1 Types of Investment and Concerns

Investment potentials are analyzed considering the current level of industrial development and the necessary supply chain development. Despite the past track record, the industrial sector has shrunk significantly. Therefore, a large portion of the goods consumed domestically relies on imports. Although the potentials are identified in sectors such as agro and food processing which utilize locally available materials, supply chain development is still a critical issue in order to supplement various inputs for processing.

It is also found that the information on markets and trading structure within DRC is not sufficiently available for foreign investors. Some investors point out the competition with imported goods. On the other hand, some manufacturing companies substitute imported goods for their products when the production cost includes power, logistics and labor fee[39]. As seen by the difference of the value of household expenditure, purchasing power of consumers also varies between in Kinshasa and in other cities. Moreover, the market is very price-sensitive and puts less value on quality[40].

Even multinational companies in the fast moving consumer goods sector, which have extensive networks of production and distribution, rely on the distribution network of local agents in DRC[41]. In order to start direct investment which involves actual production or provision of services, investors should carry out a preparatory phase to have good understanding on the market and the structure, plan for introduction of the products, establishment of supply chain and the knowledge on various administrative procedures.

[39] According to interviews, there are retailers who rely completely on imported fresh produce, whereas some handle domestic products. One example runs a farm to procure own merchandise.
[40] Based on interviews with investors in the agriculture sector. According to the interviewees, demand for the fresh and high-valued vegetable is still limited even in major cities.
[41] For example, Coca Cola provides the license to the local manufacturers. Unilever sells the products through local agents.

Chapter 5 Investment Policy in DRC

5.1 Investment Policy in DRC

The Policy Framework for Investment (PFI) by OECD, the analytical framework for investment promotion policy, identifies policies and practices that are required for promoting investment, namely, strong institution and effective public governance, trust, whole-of-government approaches, inter-governmental coordination, transparency and engagement, innovation in policy design and delivery, and international cooperation. Various issues may be necessary to improve in order to facilitate favorable business environment for investors; these are discussed in the next chapter. In particular, coherence and convergence of various policies, trust, and transparency of the system are important nature for investment promotion.

After an overview, this chapter evaluates investment-related policies and legal system from the following aspects; i) policy coherence, ii) transparency of legal system, and iii) coordination among government actors. The components of investment policy will be also reviewed from the aspect of non-discrimination, protection of investors, and participation in the international frameworks. In addition, the incentives are reviewed as a policy tool of investment promotion.

5.2 Coherence of Investment and Other Economic Development Policies

5.2.1 Significance of Improving the Investment Climate for National Economic Development Policy

DRC targets improvement of business and investment climate as the major pillar of its national economic development. The Second Growth and Poverty Reduction Strategy Paper (GPRSP 2), 5-year plan for 2011 to 2015 sets the target economic growth at 7.2% per annum together with the Millennium Development Goals (MDGs), and specific targets on poverty reduction, employment creation and public investment.

GPRSP 2 has four strategic pillars; i) governance and peace building, ii) economic diversification, iii) promotion of growth and employment generation, and iv) environment protection and fight against climate change. The first pillar takes improvement of business environment as one of the major areas of its focuses. The specific policy areas include legal system development, trade promotion, taxation system development and reform and improvement of access to finance. Target indices are also set to measure the achievement in improvement of business environment. Such indices include ranks in World Bank’s Doing Business and the number of enterprises created.

5.2.2 Overview of Related Policies

(1) Industrial Policies

The 10-year plan for industrialization (Plan décennal d’industrialisation de la Republique démocratique du Congo) developed in November 2015 set its goals as i) creation of at least 2,000 new enterprises in the industrial sector, ii) rehabilitation of vital industrial enterprises at which operation currently ceased, and iii) promotion of existing industrial production units. The plan targets value-addition for agro, fisheries and livestock products and mineral resources. The plan specifically focuses on metal industries, construction materials, packaging materials, oil and gas, pharmaceuticals and light industries as the sectors for the promotion. Actual policy actions are listed below:

- Research on the current situation of industry to develop promotion policies
- Development of industrial land (special economic zones, economic corridors, and Parc-agro-industriel)
- Facilitation of important power and transportation infrastructure
- Development of basic institutional framework and the government functions for standardization, certification, metrology, and protection of intellectual property right.
- Entrepreneurship development
- Promotion of industries environmental-consciously (coordination of environment and industrial development policy, acquisition of technology for environmental management)

The progress on institutional development for establishing special economic zones is discussed below.

1) Legal Framework Development for Special Economic Zones

The Government of DRC enacted the law on the establishment of special economic zones (SEZ) (Loi n° 14/022 du 07 juillet 2014 fixant le régime des zones économiques spéciales en république démocratique du congo, hereinafter “SEZ Law”). The law stipulates the definition of SEZ, developers, and operators and specifies the items to be stated in the contract with each party. The procedures of selecting developers and operators (including criteria and flow of appraisal) are to be specified in the separate regulations. The Government plans to set up one SEZ per province. The first of them is Maluku in the Province of Kinshasa which is in preparation (see the box).

According to the interview with the Ministry of Industry, the concept of SEZ envisages the type of institutions which are suitable for promoting industries targeting the domestic market. Therefore, the incentive package is also expected to be structured based on the demand of such industries. Good business environment is also a part of the incentive provided by SEZ. It is expected to set up a one-stop service per SEZ with the windows, licenses and tax offices to reduce the time for administrative procedures.

Box 5-1 Development of Maluku SEZ

Maluku is located in the suburbs of Kinshasa besides the Congo River in the Province of Kinshasa. The Government of DRC is currently in preparation of setting up a SEZ in this location as a pilot case. At the time of the Survey, the incentives and the scheme for development are not clarified.

According to the Ministry of Industry, such issues which require fine tuning with the demand of key private sector players including developers, operators and tenants will be tested and decided in the process of interacting with possible investors in the SEZ. The land allocation has been started without having governing regulations for appraisals, and some tenants have already started site preparation.

(2) Trade Policy

1) The Government Efforts for Trade Promotion

The Government of DRC conducted a diagnostic study to analyze the current situation for trade promotion (Étude diagonostique sur l'Integration du commerce) with the support of the World Bank. The study provides comprehensive recommendations for trade promotion as summarized below.

Table 5-1 Key Recommendations in the Diagnostic Study for Trade Integration

Area	Key Recommendations
Trade policy and the improvement of the performance of policy implementation	・ Development of a trade policy in accordance with WTO and other international frameworks and their obligations. ・ Capacity building for trade negotiation ・ Promotion of integration with regional economic communities
Trade Facilitation	・ Setting up the one-stop window for improving trade-related administrative procedures ・ Risk-based customs management ・ Review the roles of governmental agencies (e.g., reform of the Office Congolais de Contrôle) ・ Review of fees/charges and services of public institutions related to trade ・ Trade-related legal reform
Improvement of performance of infrastructure	・ Telecommunication, transport, energy
Improvement of performance of production sector	・ Mining、Agriculture、Forestry

Source: Etude diagnostique sur l'Integration du commerce.

However, the trade policy reported to WTO in 2006 has not been reviewed based on the study recommendations. The export promotion policy which provides a clear direction for export promotion has not been developed.

On the other hand, the one-stop window was set up for the payment of multiple taxes and levies borne upon export and import. In terms of the customs clearance, upgrade of the system of electronic declaration was completed and risk-based clearance has been started to simplify the process (see section 6.2.4.).

2) Institutions and Organization of Trade Promotion

GPRSP 2, the national development plan, envisages fostering exportable products as the pillar of trade promotion. However, no organization so far is specifically tasked for export promotion. Therefore, coordination between the trade policy and the investment promotion policy has not been done in an effective manner.

3) Participation in the Trade-Related International Frameworks

DRC joined the World Trade Organization (WTO) in 1997. DRC regards participation in regional economic communities (RECs) as a key policy for trade promotion. As mentioned in Chapter 2, DRC participates in three regional economic communities so far, namely, COMESA, SADC, and ECCAS. However, as mentioned below, actual degree of the participation in these RECs is not regarded as fully effective[42]. Although COMESA started forming Free Trade Area (FTA), DRC has not participated in it. COMESA also launched the Customs Union and introduced Common Market Customs Management Regulations with the Common External Tariff (CET) and the regulatory mechanism for the trade facilitation and dispute settlement mechanism among the member countries. DRC has also shown their willingness to participate in the Customs Union. Although all the member states are allowed to have 3 years preparatory period for application of the Common Market Customs Management Regulations and CET, the preparation has not been progressing well in all member states. SADC approved the trade agreement in 1996 to form the FTA. However, DRC has yet to be a part of it.

(3) Privatization of State-Owned Enterprises

In DRC, relevant laws and regulations were promulgated to promote the privatization of state-owned enterprises (SOEs). At the same time, the Steering Committee for Reform of Public Enterprises (Comité de Pilotage de la Réforme des Entreprises du Portefeuille de l'Etat: COPIREP) was established. Out of the three categories of SOEs (namely, public service enterprises, public enterprises, and commercial companies), public service enterprises was moved to be administered by the ministries in charge of the field. For example, ANAPI is moved under the Ministry of Plan. All the commercial companies were privatized. All the SOEs of those industries which are eligible for ANAPI’s investment incentives are to be privatized: SOEs for power and transportation sectors are also to be privatized. However, the regulations to provide the rules and procedures for private participation into such industries are yet to be formulated. Furthermore, the financial status f privatized enterprises are not healthy enough to attract private investment. As a result, private participation has not been fully realized.

5.2.3 Legal System for Investment

This section overviews the legal system of investment permit and promotion.

(1) Investment Code

The Investment Code (Loi n° 004/2002 du 21 fevrier portant codes des investissements) promulgated in 2002 provides some important premises and incentives to be applied both for the

[42] Based on the interview with the Ministry of Commerce.

domestic and foreign direct investment. The Investment Code defines "foreign investment" when the foreign share of the capital is more than 10%. The Investment Code also stipulates the conditions and incentives specifically applied to the medium and small enterprises[43].

1) Application

The Code (Article 3) lists the following sectors as those to be excluded from the application of the Code:

- Mining and quarrying, hydrocarbon exploration and exploitation
- Banking
- Insurance and reinsurance
- Production of arm and military related products
- Production of explosives
- Assembling military related equipments and goods, provision of services related to national security.
- Small-scale commercial activities

It should be noted that it is not a prohibited list for foreign investors since foreign investors are excluded only from production and assembling of military-related goods and small-scale commercial activities. Separate laws govern investment for mining, hydrocarbon exploration and exploitation, and banking sector. Insurance and re-insurance are also liberalized and regulated by different laws.

2) Contents

Some important factors in the Investment Code are as listed below.

Table 5-2 Investment Code (Loi n° 004/2002)

Items	Contents	Applicable Provisions
Definition of the Investment Promotion Organization	Stipulated the establishment of the National Investment Promotion Agency (Agence Nationale pour la Promotion des Investissement : ANAPI) under the ministries responsible for planning and portfolio (managing state-owned enterprises) as well as ANAPI's functions and organizations.	Article 4
Approval of investment projects	Process of approval and the items to be included in the inter-ministerial decree (l'Arreté Interministeriel).	Article 5-7
Conditions for approval	The conditions for approvals and the obligations of investors (Article31 and 32) are specified.	Article 8 Article 31-32
Incentives	Incentives provided by the approval are listed. For small and medium enterprises, additional incentives are provide by Article19-22.	Article 9-18

[43] Small and medium enterprises (Petites et Moyennes Enterprises ou Petites et Moyennes Industries: PME, PMI) under the code are defined as i) physically existing and the manager himself conducts financial and other management, and ii) with more than 5 employees. PME and PMI are eligible for accessing the incentives if the invested amount is more than USD 10,000 and less than USD 200,000.

Items	Contents	Applicable Provisions
Protection of property and compensation	Protection of investors and the means are specified. Specific points includes; Non-discrimination between domestic and foreign investors, protection of invested assets and property rights, guaranteed free money transfer and the transfer of the dividend to abroad, expropriation in case of the public benefit and its compensation.	Article 23-30
Monitoring on investment performance and sanctions	Monitoring and confirmation on progress vis-à-vis what were mentioned in the project plan. Sanction is also specified in the law in case of not complying with the plan.	Article 33-36
Dispute settlement	Measures for dispute settlement between the Government of DRC and the investors at the higher level as ICSID.	Article 37-38

Source: JICA Study Team based on the Investment Law (Loi n° 004/2002).

5.2.4 Laws Governing Various Industries

This section summarizes the laws regulating industries which are outside of the scope of the Investment Code (Loi n° 004/2002). Other than those mentioned below, the legal framework for the private sector participation into the power sector has been on-going (please refer to the Chapter 6). In 2015, the laws on the hydrocarbon sector (Loi n° 15/012 du 1er août 2015 portant régime général des hydrocarbures) and leasing (Loi n° 15/003 du 12 février 2015 relative au crédit-bail) were also enacted.

(1) Mining Code

Legal framework for rights of exploration, examination and exploitation and the incentives regarding mining and quarrying are regulated by the Mining Code (Loi n° 007/2002 du juillet 2002 portant code minier, hereinafter "the Mining Code"). Liquid mineral resources such as hydrocarbon, hot springs and water are regulated by other laws. The code stipulates that underground resources are state assets. It also covers the procedures for providing permits for each step of exploration, examination and exploitation as well as the protection of the right of investors and their obligation. Article 275, for example, mentions compensation in case of expropriation. Article 276 stipulates that amendment of the code should be applied to the permits based on previous laws 10 years after the enactment.

(2) Forestry Code

The forestry reserve belongs to the state in DRC. The Forestry Code (Loi n° 011/2002 du 29 août 2002 portant code forestiert, hereinafter "the Forestry Code") provides the definition of forests and protection and concession of the forest. The concessions regulated under the code include not only logging, but utilization of the forestry resources by such activities as tourism (Article 98.) Article 120 also stipulates the taxes on utilization of the forestry resources based on the area width under concession, logging and export, and environmental protection.

(3) Farming Law

The fundamental law on agriculture (Loi n° 11/022 du 24 décembre 2011 portant principles fondamentaux relatifs à l'agriculture, hereinafter "the Farming Law") was enacted in 2011. The law encompasses a wide range of the activities related to agriculture and fish farming: the areas include research and development, training, and commercialization. The most important provision in the law is the limitation on the acquisition of farmland by a foreign owned farming company (Article 82). The law also touches on the incentives provided under the law.

(4) Banking Law

Activities of providing loans are regulated by a law established in 2002 (Loi n° 003/2002 du 2 février 2002 relative à l'activité et au contrôle des établissments de credit, hereinafter "the Banking Law") . The details on the law are mentioned in section 6.2.7 with the current situation on the financial sector.

(5) Telecommuncation Law

The telecommunication sector has been regulated by the legal framework provided by the 2002-established law (Loi-Cadre n° 013/2002 du 16 octobre 2002 sur les telecommunications, hereinafter "the Telecommunication Law"). The law, however, does not include some important aspects of the nature of the industry. Also, it was not fully projected and designed in order to fit to the currently prevailing situation where some heavy demand is observed for some telecom services such as Internet. Therefore, it was under review for amendment at the time of the Survey.

5.2.5 Evaluation of the Convergence and Coherence of the Policies for Investment Promotion

DRC's current policy direction for improvement of business environment tackles a wide range of issues based on the recognition that the private-sector lead development of production is important for economic development. The expected driving force for the development also includes foreign investment. The recently developed industrial development policy puts the emphasis on laying basic infrastructure for industrial activities. These policies share the same direction with the policy objectives for investment promotion to improve the business environment for private businesses.

Important policies are available in some important areas to effectively support investment promotion. The trade policy is one of them. In addition, some laws may not be fully supportive for foreign or private investment. For example, the Farming Law limits the foreign investors' entry to agriculture investment by limiting access to the farmland. Also, the telecom sector law must be updated and altered in order to promote the industry effectively.

Privatization of the state-owned enterprises shows some effectiveness in foreign investment promotion: a few investments have been commenced based on the acquisition of former state-owned enterprises. However, in general, the privatization does not strongly promote private investment. Privatized public utility companies have not been successful in attracting private investment.

Other efforts may be required to develop policies in more effective ways. For example, trade policy together with the legal system and implementation mechanism should be established through efforts of integration into the regional economic communities. With the lack of effective policies and necessary laws, problems in implementation may continue.

5.3 Transparency of Legal System for Business and Investment

Transparency of the legal system for business and investment are evaluated based on the situation of the development of the legal system and the participation of the private sector in policy development.

5.3.1 Efforts for Legal System Development through Participation in the International Framework

DRC's laws which regulate commercial transactions consist of two old laws: namely, the Commercial Law-Decree enacted in colonial times and the law-decree of the commercial registration enacted in 1970's. In order to update the legal system to make it credible internationally to promote trade and investment, DRC participated in the regionally harmonized legal system for business. In 2012, it participated in the Organization for the Harmonization of Business Laws in Africa (Organisation pour l'Hamonisation en Afrique du Droit des Affaires: OHADA). DRC has adopted the harmonized business laws of OHADA as its domestic laws. By adopting the harmonized business laws, it is expected to increase its credibility in the international business. Furthermore, the harmonized legal system is expected to promote regional integration and economic development.

(1) Overview of OHADA

OHADA is governed and administered by three institutions: the Conference of the Head of States and Governments, the Council of Ministers and the Permanent Secretariat. OHADA also is attached two technical institutions: namely, OHADA Common Court of Justice and Arbitration (Cour commune de Justice et d'Arbitrage de l'OHADA: CCJA) and the Regional Training Centre for Legal Officers (École Régionale Supérieure de la Magistrature: ERSUMA). The distinctive characteristic of OHADA is in the mechanism for decision making for regional legal development and the judicial organ (CCJA). The laws adopted by OHADA are the following:

- Uniform Act Relating to General Commercial Law (Acte uniforme portant sur le droit commercial general)
- Uniform Act Relating to Commercial Companies and Economic Interest Groups (Acte uniforme relatif au droit des sociétés commerciales et du groupementd'intérêt

économique)

- Uniform Act Organizing Secured Transactions and Guaranties (Acte uniforme portant organisation des sûretés)
- Uniform Act on Arbitration (Acte uniforme relatif au droit de l'arbitrage).
- Uniform Act on Organizing and Harmonizing Undertakings' Accounting System (Acte uniforme portant organisation des procédures collectives d'apurement du passif)
- Uniform Act Organizing Collective Proceedings for the Clearing of Debts (Acte uniforme portant organisation des procédures simplifiées de recouvrement et des voies d'exécution)
- Uniform Act Relating to Carriage of Goods by Road (Acte uniforme relatif aux contrats de transport de marchandises par route)
- Uniform Act on Cooperative Companies (Acte uniforme relatif au droit des sociétés coopératives)[44]

By conforming to OHADA laws, the business commerce related legal framework was updated and clarified. At the same time, some major changes were introduced which may directly contribute to promote investment. Such changes include the legal framework for leasing businesses and simplification of company registration.

(2) Problems on Implementation

OHADA laws allow continuous application of the existing domestic laws in case there is no applicable clause and the existing law does not contradict with the principles of OHADA laws. Regulations and legal documents on detailed procedures are not fully available for most of the OHADA laws. Moreover, it has only recently been enacted in 2012, which is too soon to be effective. Therefore, the impact of OHADA laws in terms of the betterment of the business environment is so far limited. Extensive training was given to legal professionals at the time of introduction of OHADA laws in DRC. However, it was pointed out that the quality of the legal professionals may still need improvement due to the broad nature of observed problems in the rule of law and in the capacity of the professionals[45].

5.3.2 Consultation with the Private Sector for Improvement of Investment Climate

(1) Private Sector Involvement in the Business and Investment Climate

The Steering Committee for Investment and Business Climate Improvement (Commité de Pilotage pour l'améllioration du Climat des affaires et investissements: CPCAI) organizes the decision making function with the members including those from the private sector for improvement of the business and investment climate. ANAPI also holds such meetings, although not regularly.

[44] Based on the law regarding the participation of DRC in OHADA (Loi n° 10/002 du 11 fevrièr 2010 autorisant l'adhesion de la republique democrqtique du congo au traite du 17 octobre 1993 relatif à l'harmonisation du droit des affaires en afrique) and its official gazettment in September 2012.

[45] During the Survey, interviewed enterprises indicate concerns on the quality of the legal professionals. Some witnessed the experience of a lawsuit based on fabricated evidence which ordered the unjust penalty.

However, the consultation is generally not held for areas such as tax collection which is witnessed to have the significant problems of frequent changes in rules and regulation, introduction of taxes and changes of the rates without prior consultation[46].

(2) Private Sector's Coping Mechanism

The Federation of Congolese Enterprises (Fédération Enterprises du Congo: FEC), is the top body of private sector organizations including those for small and medium enterprises. FEC actively participates in consultation with the government such as the afore-mentioned CPCAI and functions as the window between private and public sectors. It also acts advisory and coordination mechanism for members in the provinces in order for the members to cope with the various harassments from the administrations and problems such as tax-related disputes[47].

In the mining sector, the Chamber of Mines (Chambre de Mines) engages in consultation and lobbying in the areas of mining operation and coordination to disseminate the proposals for improvement of the operational environment for the mining sector.

Box 5-2 Organizations in FEC

FEC is the largest body of private sector organizations in DRC with the functions of the employers association and the chamber of commerce and industry. It was established in May 1997. It reports to the Ministry of Labor.

The number of the members is around 2,000. 20% of the members are large enterprises, and 80% are small and medium enterprises. A large portion of the members engage in trading. Other major industries of members are mining, beverage, telecommunication, banking, wood fabrication, and transportation. The organization consists of a national level body and provincial chapters.

It provides advisory services and sometimes coordination for disputes encountered by the members for issues such as labor disputes and tax issues. It also conducts lobbying for improvement of the business environment.

5.4 Coordination among Government Agencies for Investment Promotion to Ensure Effectiveness

5.4.1 Relevant Institutions for Improvement of Business and Investment Climate

The Ministry of Planning is in charge of matters for improvement of business and investment climate. The Office of Prime Minister has also been also spearheading the monitoring and coordination among ministries. The major actors are as explained below.

[46] Based on the interviews with companies.
[47] Based on the interview with the official of FEC.

(1) The Steering Committee for Business and Investment Climate Improvement

The Government of DRC established the Steering Committee for Business and Investment Climate Improvement (Commité de Pilotage pour l'améllioration du Climat des affaires et investissements: CPCAI) under the Ministry of Planning . CPCAI consists of the representatives from 15 ministries and agencies as well as the private sector. Upon decision on policy reform, technical officers under the general delegation support the coordination and execution of the reform. The objectives of activities by CPCAI are listed below[48].

- Simplification of the procedures relevant to economic and commercial activities.
- Reduction of the number of administrative procedures.
- Reduction of the time required to process and issue the administrative documents
- Easing the burden of tax and administrative procedures, increase the transparency of the procedures.

CPCAI has been promoting the institutional reform, public-private dialogues, follow up of the projects, monitoring of the progress of the reform and information dissemination. The reform specifically targeted the areas evaluated by Doing Business. Some good evaluation resulted. In 2014, DRC was selected as one of the best performers in Dealing with Construction Permits.

The functions and tasks are to be merged into ANAPI since ANAPI is located more closely to the investors[49].

(2) Office of Prime Minister

The Office of Prime Minister also set up a special team for improvement of business and investment climate. The major tasks are support to promotion of the reform and coordination between ministers, CPCAI and the diplomatic corps. The activities conducted are listed below[50]:

- The weekly coordinating meeting chaired by the Prime Minister from 2012 to 2014 to monitor the progress of the reform and discuss with relevant ministers.
- The Economic Council, informal consultation meetings with the diplomatic corps especially those with the large invested amount. Information collection on the business environment and the problems faced by foreign investors.
- Consultation and advisory for individual problems of foreign investors informed through the embassies.

5.4.2 Evaluation and the Problems

DRC's reform for improvement of business and investment climate is being spearheaded by the strong leadership of the Prime Minister together with the donor support. Its reform efforts are progressing under the coordination mechanism within the government. Commitment at high-level of the Prime Minister and communication with investors as well as financal support from donors may

[48] Website of CPCAI: http://www.cpcai-rdc.org/index.php/a-propos-de-nous/apercu-rapide
[49] Based on the interview with the Ministry of Planning.
[50] Based on the interview with the Office of Prime Minister.

help the reform to achieve results.

Despite the progress, there are number of areas which require further efforts. The largest problems indicated by the diplomatic corps to the Office of Prime Minister are tax issues. Doing business 2016 changed the composition of indices putting more emphasis on the quality of reform. Doing Business data only covers the situation in Kinshasa. Reform is also required in the provinces. The effectiveness of policy implementation after transfer of the tasks to ANAPI is also being monitored.

5.5 Analysis on the Investment-Related Legal System

The section reviews the composition of the Investment Code and other laws and regulations from the following aspects: its nature (non-discrimination); protection of investors; protection of property rights; and the participation in international frameworks.

5.5.1 Non-Discrimination and National Treatment

The areas where there are limitations on the entry of foreign investors are specified in the Investment Code (Loi n° 004/2002). Small-scale commercial activities and productions and services related to military activities are listed. Apart from these activities, investors are to be treated equally regardless of being domestic or foreign for granting incentives and protection of the rights. Foreign companies do not have limitations to participate in public procurement tendering at least in the legal framework.

It should, however, be noted that the entry of foreign investment into agriculture sector may face limitation due to limited access to the land concessions for agricultural use: the access to the land is limited only for Congolese nationals or investor whose majority is held by Congolese (the Farming Law, Loi n° 11/022 du 24 decembre 2011).

5.5.2 Protection of Investors

The Investment Code (Loi n° 004/2002) stipulates in Articles 23 to 27 in part 5 (Titre V) that: i) the investors' property rights are protected regardless of Congolese national or foreigners as guaranteed by the Constitution; ii) the property of the investors will not be nationalized or expropriated by newly established laws and decisions made by the sub-national authorities unless it is based on reasons for public benefit, and justifiable and equitable compensation is made; and the compensation should be made based on the market value of the asset.

In terms of dispute settlement, the Investment Code states that disputes between the Government of DRC and foreign nationals shall be settled based on the Convention of the International Centre for Investment Disputes (ICSID) and ICSID, or the rules of arbitration by the International Chamber of Commerce if it is not settled within 3 months after the day for the first appeal in writing of the negotiation is made (Article 37 and 38) [51]. DRC also ratified the New York Convention which provides the rules and framework for arbitration of international commercial disputes.

Interviewed companies through the Survey in general evaluated that DRC increased its credibility to some extent against the possibility of expropriation and nationalization through the efforts of participation into the international framework despite the history of nationalization in 1990s and the recent incident where the concession of a mining company was revoked.

5.5.3 Intellectual Property Rights

(1) Participation in International Framework

DRC participate in the World Intellectual Property Organization (WIPO) and ratified the following treaties:

- WIPO Convention
- Paris Convention for the Protection of Industrial Property)
- Berne Convention for the Protection of Literary and Artistic Works
- Convention for the Protection of Producers of Phonograms Against Unauthorized Duplication)

It also signed the Singapore Treaty on the Law of Trademarks, but has not ratified it yet[52].

(2) Intellectual Property Rights and the Protection

The Industrial Property Law (Loi n° 82-001 du 7 janvier 1982 relative à la propriété industrielle) was promulgated. The law defines and rules the rights of patents, industrial designs, trademarks and trade names. In terms of literary and visual works, phonographic and other media contents, an ordinance-law (Ordonnance-loi n° 86-033 du 5 avril 1986 portant protection des droits d'auteur et droits voisins) provides the legal background of rights. However, in the reality, there is no institution designated to deal with rules, especially the intellectual property rights issue[53]. The 10-year industrial development plan embraces this issue and indicates that a special institution shall be established. According to the interviews with private companies in DRC, there are some cases where a company that registered their literary and cultural materials was sued without any proper evidence. While the laws and regulations are available to some extent, the execution mechanism is not in place including the proper legal personnel.

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[51] La Convention du 18 mars 1965 pour le règlement des différends relatifs aux investissements entre Etats et Ressortissants d'autres Etats, (Convention CIRDI). ICSID is "le Centre International pour Réglement des Différent relatives oux Investissements (CIRDI)" in French. DRC was signed for the convention in 1970.

[52] Based on the WIPO website.

[53] According to the interviews with private companies in DRC, there are frequent incidents where the fake goods are sold. However, it is not as a critical issue as the issues of tax. Besides, it is difficult to monitor and charge the sanctions for such fake goods where proper legal institutions are not available.

5.5.4 Participation in the International Frameworks

(1) Multilateral Investment Guarantee Agency

DRC is a member of Multilateral Investment Guarantee Agency (MIGA). The investors may guarantee their invested assets to avoid non-commercial risks such as expropriation, ceasing of foreign exchange or foreign transfer of money, war and civil unrest. Since 2005, investments in areas such as banking, mining, retail and maintenance of heavy machineries for mining, and telecommunication facilities have been guaranteed.

(2) Bilateral Investment Treaties

DRC have signed bilateral investment treaties with Germany, France, Belgium, Luxemburg, Egypt, Greece, Israel, Jordan, Portugal, South Africa, Switzerland, Italy, and South Korea, China, Ukraine, and US. The ones with Germany, France, US, and Switzerland have been effective[54].

5.6 Investment Promotion Measures

DRC has incentive schemes for generic investors and those for specific industries.

(1) Incentives by the Investment Code (Loi n° 004/2002)

The Investment Code (Loi n° 004/2002) provides incentives according to the locations of projects. Three economic regions (région économique) are designated and granted different durations of incentives. The table below shows the provinces and cities included in each region as well as the duration of the incentives. In the Investment Code (Loi n° 004/2002), there are no other non-fiscal incentives mentioned.

Table 5-3 Economic Regions and Duration of Application of Fiscal Incentives

Categories	Economic Regions A	Area B	Area C
Specification (Provinces and cities)	Kinshasa	Bas-Congo, Lubumbasi, Likasi (Katanga), Kolwezi (Katanga)	Bandundu, Équateur, Kasaï-Occidental, Kasaï-Oriental, Maniema, North Kivu, South Kivu, Oriental, Katanga
Applicable Duration	3 years	4 years	5 years

Source: Investment Code (Loi n° 004/2002)
Note: The names of the provinces are the ones before reform.

The fiscal incentives provided by the Investment Code (Loi n° 004/2002) are shown in the table below. The list of the goods for duty-free importation shall be stated by inter-ministerial decision (Arrêté Interministériel d'agrément) provided upon the approval of the granting of the incentives.

[54] UNCTAD website: http://investmentpolicyhub.unctad.org/IIA/CountryBits/56)

Table 5-4 Fiscal Incentives by the Investment Code (Loi n° 004/2002)

Types of Incentives	Items
Fiscal Incentives	・ Corporate tax exemption: 3 to 5 years. ・ Property tax exempted if it is in the project location.
Incentives on Import and Export Duty	・ Export duty on the machinery and equipment for project as well as spare parts less than 10% of CIF value of the machinery is exempted. ・ Duty free import of second hand construction machinery, ships and airplane ・ Export duty exempted. ・ Import duty free for industrial inputs used for the project. ・ Allowance for the expenditure for training and environmental protection measures.

Source: Investment Code (Loi n° 004/2002) and the material prepared by ANAPI.

The import duty exemption is only applicable if the product is not manufactured in DRC or the price before tax of those produced in DRC are10% or more expensive than the imported one. Even it can be customs duty free, 2% of the import charge and the 16% of TVA are not exempted.

The table below compares fiscal incentives with Zambia. While the items of the incentives are similar, the conditions have some difference. Zambia sets the minimum investment amount for the eligibility rather high, but makes no differentiation for geographic locations.

Table 5-5 Comparison of DRC and Zambia on Fiscal Incentives

	DRC	Zambia
Major fiscal incentives	・ Corporate tax exemption: 3 to 5 years. ・ Property tax exempted if it is in the project location. ・ Import of machinery and equipment and the spare parts is duty free. ・ Export duty exempted. ・ Import duty exempted for industrial inputs.	・ Corporate tax exemption: 5 years. ・ Withholding tax on the dividend is exempted for 5 years from the first year of the distribution. ・ Import of machinery and equipment is duty free for 5 years. ・ 100% allowance of the expenditure for infrastructure improvement.
Minimum Investment Amount	USD 200,000	USD 500,000
Difference of incentives per geographical location	The incentives are provided according to the Economic Zone categories (3 types)	Not applicable
Other conditions	・ Registered company in DRC. ・ Value addition more than 35% ・ Compliance with environmental laws and regulations ・ Congolese employees' acquisition of specialized skills and skills at managerial and responsible position.	・ Registered company in Zambia. ・ Consider such aspects of employment creation, technology transfer, utilization of domestic products, diversification of industries and export-orientedness

Source: JICA Study Team based on the materials prepared by ANAPI and interviews and web-site of ZDA.

(2) Other Incentives

Apart from the incentives provided by the Investment Code, the incentives for the following sectors are also provided by separate laws.

Table 5-6 Sector-Specific Incentives in DRC

Industry	Major incentives
Agriculture (Farming Law)	· Export duty on the produce is exempted. · Import duty and other tax on import of agro-inputs are exempted. · Property tax on the agricultural production is exempted. · The tax and charges for the public services related to export of produce are limited to 1% of the value of the exported goods.
Mining （Mining Code）	· Reduced tax rate for withholding tax on dividend (10% whereas 20% for normal case) · Reduced tax rate for the extra tax on the income of expatriates (IERE, 10% whereas 25% for normal case) · Reduction of the import customs duty depending on the types of license (3 to 5%) · Export duty is exempted. · Duty free import for petroleum products and lubricants for the use of mining related activities. · Property tax is exempted. · Vehicles tax is exempted. · The tax and charges for the public services related to export of products are limited to 1% of the value of the exported goods.
Power (Décret 15/009 du 28 avril 2015)	· Import customs duty and TVA on equipment for power infrastructure are exempted. · Import duty for electricity is exempted. · Export duty for electricity is limited to 1%. * The duty exemption is applicable for 4 years.
Strategic Value Chain Industries	· TVA on the materials, equipments and services exempted. · Import duty on equipment and raw materials is exempted. · Special tariff on the electricity. * The duty exemption is applicable for 4 years.

Source: JICA Study Team based on the material prepared by ANAPI.

(3) Evaluation of the Effectiveness of Incentives

The incentives provided by the Investment Code (Loi n° 004/2002) do not have a large difference with the Zambian case. While some incentives provided by different laws for specific industries may include more favorable treatment as seen in the Mining Code, such treatment is balanced with the other conditions including the requirement of licenses and charges. For the mining sector, the share of the government interest also affects profitability. Therefore, it is difficult to see actual effectiveness of incentives within the overall industrial development objectives.

However, the incentives may not be the critical determinant for investing in DRC. Duty free treatment for corporate tax and customs duty for import of equipment and machinery can be still attractive. However, the overall tax burden explained in section 6.2.3 may be too large to cancel and to effectively reduce the burden of the investors.

Chapter 6 Analysis of Investment Climete in DRC

6.1 Overview of Investment Climate in DRC and Method of Analysis

6.1.1 Method of Analysis

Investment climate can be described from the combination of various issues which are related to the business operations and launching of investment projects. They consist of regulatory environment, infrastructure development and other factors which can affect costs and time in business operation. In the course of life of investment starting from the establishing a company to winding up of the business, investors expect to follow various operational and administrative procedures. Various conditions may affect the cost, quality and delivery of the business. The figure below shows the life cycle of the investment and various types of transactions and administrative processes.

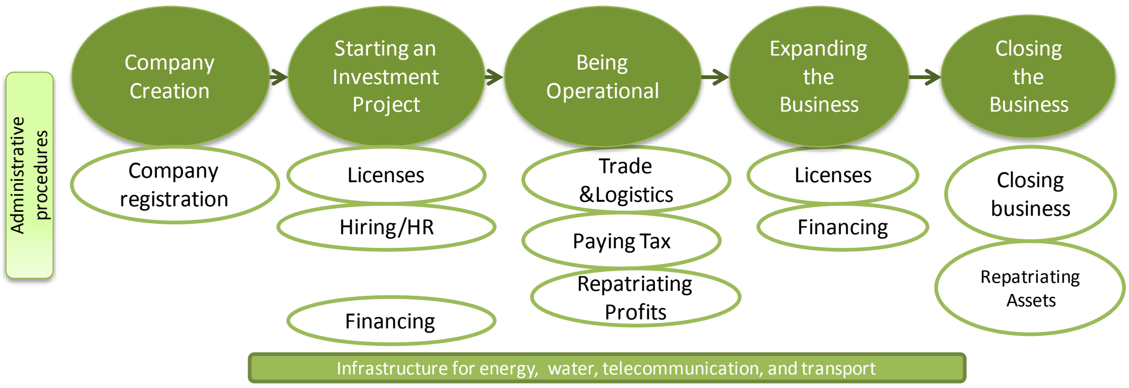


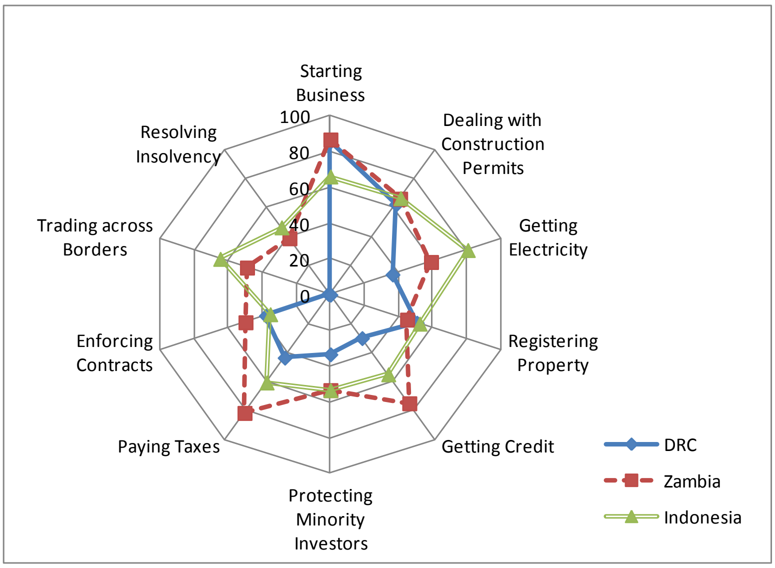
Figure 6-1 Life Cycle of Direct Investment and Administrative Procedures

The number and types of necessary procedures may vary depending on the types of industries and businesses. Availability of quality infrastructure is also important factors for business operation.

The analysis on investment environment in this section looks at the critical issues in regulatory environment and the situations of infrastructure in DRC from the following aspects: i) frameworks and structures including overall flows of procedures, status of development and ii) actual situations based on the information on the experiences of investors in their business operation with the data on costs, times and other burdens. Following the analysis, the following topics will be described: iii) identification of the critical problems and iv) efforts of the Government and other development partners.

6.1.2 Overview of Investment Climate of DRC and the Scope of Analysis

"Doing Business" by the World Bank Group may give a rough overview of the business environment through comparison with other countries. The report in 2016 introduced the Distance to Frontier (DTP) index. DTP is a composite index which calculates the degree of a certain country's score vis-à-vis the total score of the top country in percentage (0 to 100, where more is the better). DTP score of DRC is as shown in the figure below. The data of two other countries are also indicated for comparison. Both Zambia and Indonesia have large mineral deposits and vast land like DRC.



Source: JICA Study Team based on Doing Business 2016.

Figure 6-2 DRC's Distance to Frontier Score of Doing Business

DRC is ranked 184th out of 189 countries with a DTF score of 38.14. Zambia and Indonesia were ranked 97th and 109th, respectively. Comparing with Zambia and Indonesia, DRC's score is higher in Starting Business, but extremely low in terms of Trading Across Borders. The result of Trading Across Borders is ranked as 187th out of 189 countries. Resolving Insolvency was not measured due to insufficient data availability. Getting Electricity, Protecting Minority Investors, and Paying Tax are significantly lower than Zambia and Indonesia.

As explained in the previous chapter, the Government of DRC has been promoting the improvement of business climate specifically targeting raising its ranking in Doing Business. The impact has been witnessed in the area of Starting Business with simplified procedures for starting business. At the same time, DRC also applies harmonized business related laws by participating in OHADA in order to improve the legal system for doing business. This particular enterprise has also contributed to reduce the burden for starting businesses[55]. However, the result indicates that various burdens encountered through operation, including the infrastructure issues, still need to be reduced.

It is also acknowledged that the business climate should consider areas which are not captured by Doing Business and the burdens experienced by investors in total. In this Chapter, the effects of past efforts for improving business climate are reviewed. It also analyzes matters which are regarded as important in the operation of business. The analysis covers both the overview of the institutions and the actual situation of policy implementation.

[55] Doing Business 2016 mentioned the impact of introduction of OHADA in the member countries are observed in the improved scores in Starting Business as OHADA law promotes the reduction of the minimum paid-upcapital upon the creation of enterprises and abolishing the obligation of notarification. It was also mentioned that the scores of Dealing with Construction Permits and other areas are also improved in the member countries (Doing Business 2016).

6.2 Current Situation of Investment Environment

6.2.1 Company Creation

(1) Incorporation Procedure

1) Types of Companies

DRC has adopted OHADA's Uniform Act Relating to General Commercial Law (Acte uniforme portant sur le droit commercial général) and Uniform Act Relating to Commercial Companies and Economic Interest Group (Acte uniforme relatif au droit des sociétés commerciales et du groupementd'intérêt économique: "Uniform Company Act"). According to the latter, the types and feature of companies can be summarized as in the following table.

Table 6-1 Features of Companies by OHADA Uniform Company Act

Types of Companies	Features	Requirement of Minimum Paid up Capital
Société en Nom Collectif (SNC)/ Private Companies	All the partners have unlimited liability for the company's debts. The company's creditors may bring an action against a partner for the payment of the company's debts only at least 60 days after unsuccessfully notifying the company of such claim through an extra-judicial act. This time limit may be extended by order of the presiding justice of the competent court without exceeding 30 days.	None
Société en Commandite Simple/ Sleeping Partnerships	One or more partners are indefinitely, jointly and severally liable for the company's debts, referred to as "active partners", coexist with one or more partners liable for the company's debts up to the limit of their shares, referred to as "sleeping partners" and whose capital is broken down into partnership shares.	None
Société á Responsabilité Limitée (SARL) /Private Limited Companies	The partners are liable for the company's debts up to the limit of their contributions and their rights are represented by company's shares. It may be formed by a natural person or a corporate body, or by two or more natural persons or corporate bodies.	None[56]
Société Anonyme (SA)/ Public Limited Companies	The liability of each shareholder for the debts of the company is limited to the amount of shares he/she has taken and his/her rights are represented by shares. It may have single or plural shareholders.	USD 20,000
Succursale/ Branches	A branch can be established under 100% ownership of a foreign company. The scope of the branch business activities can be determined by the foreign parent company and it has unlimited liability for the branch's debts.	None
Bureau de Représentation/ Representative Office	A representative office can be established under 100% ownership of a foreign company. The representative office can conduct a market research and business promotion activities of the parent company but it cannot engage in business operation.	None

Source: JICA Study Team based on Uniform Act Relating to Commercial Companies and Economic Interest Group

[56] According to Article 2 of Décret no. 002/CAB/MIN/JGS & DH/014 et no.243/CAB/MIN/FINANCES du 30 Décembre 2014, SARL can freely decide its minimum capital.

2) One Stop Service for Starting Business

DRC Government established One Stop Service for Starting Business (Guichet Unique de Creation D'Entreprise: GUCE) under the Ministry of Justice to facilitate incorporation process by issuing Decree No. 12/045 dated November 1 2012 (Décret n° 12/045 du 01 Nov 2012). GUCE's head office is located in Kinshasa. GUCE has the following departments:

- General Administration Department
- Intervening Services Department
- Technical Secretary (management support by such as legal advisor and IT advisors)

The government institutions, which participates incorporation proceedings in GUCE by sending their representative, are mentioned below with their service:

- Notary Office: Notarization of articles of association
- Commercial Court: Issuing of RCCM number[57]
- Tax Office: Issuing tax number
- Ministry of Economy: Issuing national ID number
- National Social Security Institute: Issuing social security number
- Institut National de Préparation Professionnelle(INPP): Issuing registration number
- Gazette Office: Issuing state gazette
- Jurisdictional municipality（Commune in Kinshasa City）: Registration in municipality
- Directorate General of Administrative, Judicial, Lands and Participation Revenue (La
- Direction Générale des Recettes Administratives, Judiciaires, Domaniales et de Participations: DGRAD): Collection of land registration fee

According to interview with GUCE, although the above representatives from the concerned government institutions are delegated to give permission of respective license, they are obliged to follow the instruction of the management of GUCE as its members to support investors. In GUCE, there are 22 personnel including top management.

The track record of incorporation of companies in GUCE during the period of 2013 and 2015 is shown in the table below. A total of 17,997 companies have been incorporated from May 2013 to December 6, 2015, which consists of 3,981corporations and 14,014 sole proprietors. In GUCE, there are on average 30-40 application per day.

Table 6-2 Track Record of Incorporation in GUCE

Type of Co.	2013	2014	2015	Total (2013-15)
Corporation	713	1,769	1,499	3,981
Sole Proprietor	1,089	6,578	6,347	14,014
Total	1,802	8,347	7,846	17,995

Source: GUCE, Statistiques Dossiers Traites, as of December 6, 2015

[57] RCCM stands for "Registre du Commerce et du Crédit Mobilier" which means the Trade and Personal Property Credit Register.

3) Necessary Documents for Starting Business

The necessary documents for application of incorporation of a company are mentioned as follows:

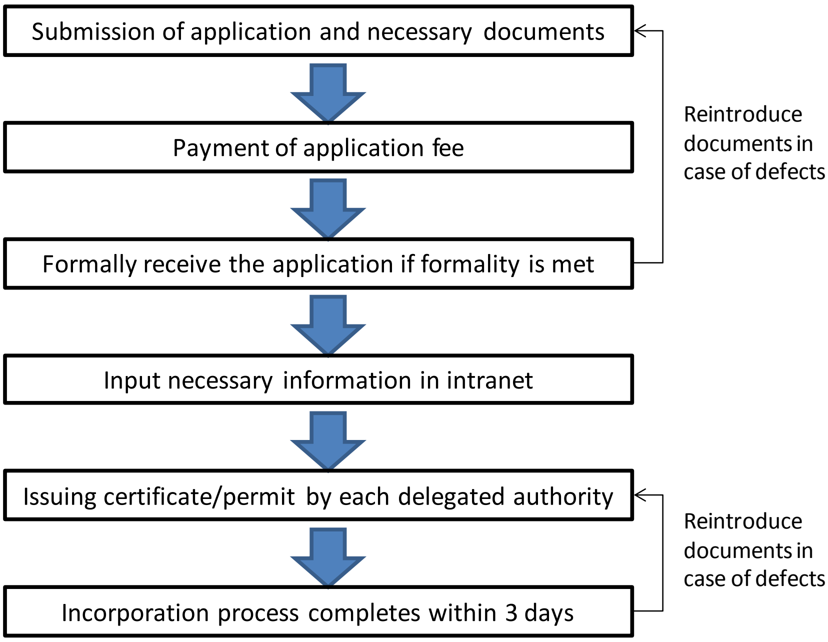
- Application letter;
- 4 copies of article of association and one electronic medium for public notice by official gazette;
- Declaration of subscription and payment;
- Certificate of payment of authorized capital or certificate of bank account;
- Specimen of CEO/Managing Director; and
- Copy of ID of CEO/Managing Director and shareholders.

4) Cost for Starting Business

The incorporation fee is 120 USD for a corporation and 40 USD for a sole proprietor.

5) Flow of Starting Business Process

The flow of starting business in GUCE is illustrated as in the following figure.



Source: JICA Study Team based on interview with GUCE

Figure 6-3 Incorporation Flow in GUCE

In order to ensure smooth incorporation process, Technical Secretariat is monitoring whether application documents have been handled properly in Intervention Services Department. In case the documents are stuck, the Secretariat analyzes the problems and supports the Department to solve the problems. In addition, CPCAI has been conducting questionnaire survey to identify the satisfaction of GUCE users. According to the above survey, although 76% of respondents were generally satisfied with GUCE's one stop service, 93% complained that it takes much more than 3 days to complete incorporation process[58].

(2) Analysis of Present State and Issues

Since the establishment of GUCE by the government of DRC, DRC has significantly simplified the incorporation process, compared with the situation earlier. Before the establishment of GUCE, investors had to separately apply for certification proceedings for 15 different government organizations including tax office. It required more than 155 days and cost USD 2,000 to 3,000 for incorporating a company, which made starting business rather difficult. At present, in principle it takes only 3 working days if necessary documents are submitted and costs only USD 120 for establishing a corporation. According to Doing Business 2016, DRC has improved its starting business ranking to 89th from 172nd in the previous year. As the table below shows, DRC has better indicators in terms of number of procedures, time and cost compared with those averages of Sub-Saharan Africa.

Table 6-3 Comparison of DRC and Sub-Saharan Africa for Starting Business

Indicator	DRC	Sub-Saharan Africa
Procedures (Number)	6	8
Time (Days)	11	26.8
Cost (% of income per capita)	29.3	53.4

Source: World Bank, Doing Business 2016

According to interviews with private investors, most believe that the incorporation process has been much improved compared with the situation before GUCE was established. However, some of them have pointed out that it usually takes 1 to 3 weeks to complete incorporation procedure due to time consuming process among the relevant government agencies and it seems that “3 days” incorporation time of GUCE’s commitment has not been realized yet.

In addition, as GUCE’s service has not been launched in local provinces like Katanga, investors are likely to continue to face a cumbersome incorporation process in terms of time and cost.

(3) Direction of Improvement

Currently through OHADA Project, the Department for International Development (DfID) of UK has been supporting company registration computerization system which will digitize former paper based transactions of company registration and financial statement data and share such data among the relevant government agencies including tax office. In addition, the above project has been also promoting to launch GUCE services in 6 provinces including Katanga on pilot basis.

DRC government is expected to further improve incorporation process by utilizing the above mentioned project and sharing company registration digital data among concerned government agencies.

[58] CPCAI, “Rapport d’enquête d’impact et de satisfaction sur le processus de creation d’entreprise à Kinshasa”, Mai 2015

6.2.2 Investment Approval

(1) Overview of System and Procedure

As far as legal system for investment approval is concerned, there are laws related to conditions and incentives for specific sectors and the law to regulate incentives for other sectors for investment promotion purpose (Loi no. 004/2002 du 21 fevrier 2002 portant Code des Investissements, hereinafter referred to as "the Investment Code"). In this section, the approval system of investment incentives will be analyzed. Under the Investment Law, National Investment Promotion Agency (Agence Nationale pour la Promotion des Investissements : ANAPI) has the authority to provide investment approval for investors[59].

The above sectors are excluded from ANAPI's investment approval on the ground that these sectors are regulated by special law such as Code Miner (Mining Code).

Article 8 of the Investment Code sets the following five conditions to obtain incentives under the law.

1. To have incorporated under Congolese Law;
2. To ensure minimum investment of USD 200,000[60];
3. To comply with rules and regulations of environmental protection and natural reserve;
4. To train local staff for future promotion to the position of expert technicians, supervisors and executives; and
5. To ensure an added value of at least 35%.

According to the interview with the Department of Approval (Département D'Agréments) of ANAPI, when investors apply for investment approval, they have to provide information in application form such as i) general information; ii) technical information ; iii) employment generation plan ; and iv) finamcial plan. In addition, they have to submit a list of machinery and equipment (volume and valuation amount) the plan to import for duty exemption procedure.

The required information for the above application documents are mentioned as in the following table.

[59] According to the Article 3 of the above Investment Code, however, the following sectors are excluded from ANAPI's investment approval: Mines and hydrocarbon; Bank; Insurance and Reinsurance; Production of weapon and military related activities; Production of explosive; Assembling of military/paramilitary equipment & material or security service; Production of weapon and military/paramilitary activities or security service; and Commercial activities.

[60] However, the Article 2 h) specifies the minimum investment for Small and Medium Enterprises (SMEs) as USD 10,000.

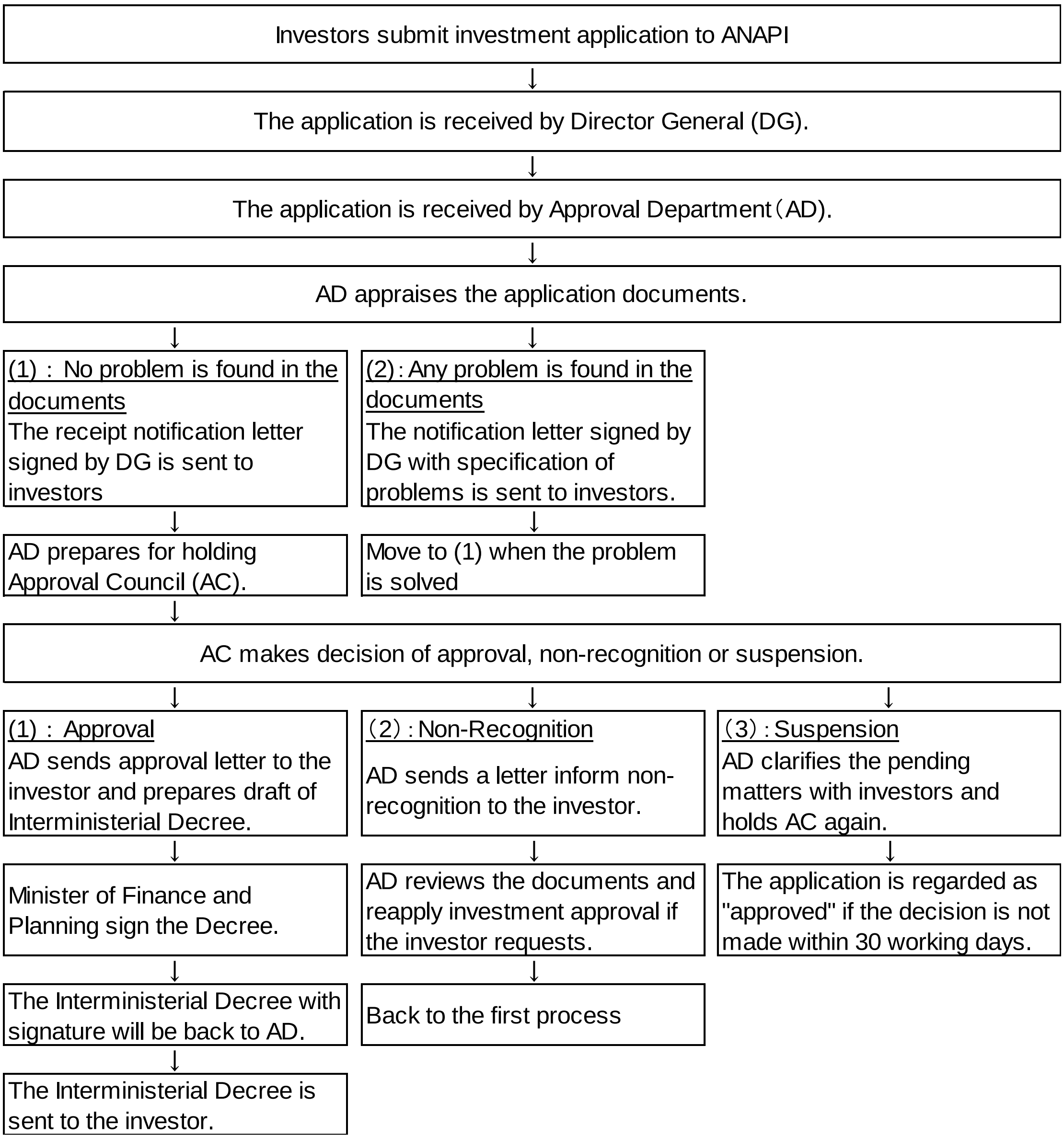
Table 6-4 Necessary Information for Investment Approval

Type of information	Contents of Information
General Information	Company profile (Name, Registration Number, RCCM Number issued by the Ministry of Commerce, National ID Number issued by the Ministry of Economy, Tax Number, Type of Company, Address of Head Office, Place of Activities, Purpose of Incorporation, Structure of Shareholders, etc.); Profile of Founders (Nationality, Address, Business Sector, etc.)
Technical Information	Investment place; Objective; Outline of business (Nature of business and objective, kind of machinery and equipment to be used) ; Production capacity (target and maximum capacity) ; Business plan (Schedule of capital investment and production, etc.) ; Environmental impact analysis ; and Place of raw material origin
Employment Plan	Number of employees (DRC employees/foreign employees, number of each position); Salary form; Social security; and Training plan for employees.
Financial Plan	Expense/income analysis (investment amount – imported/locally procured equipment and components, method of financing (equity and debt), loan repayment schedule, production volume, sales price, sales volume, profit plan, etc.)

Source: JICA Study Team based on interview with ANAPI

Based on the above plan, ANAPI will check whether there is 35% added value 【(turnover – production cost)/turnover】 in the prospective investment project. However, the figure 35% stands only as general guideline and it is not necessarily regarded as an absolute condition. In case the prospective investment sector has a high potential, there is a room for negotiation case by case basis between ANAPI and investors.

The investment approval flow is illustrated as in the following figure. ANAPI has to notify the decision of investment approval to investors within 30 working days after it receives application documents. If the notification is not done by the deadline date, it is automatically regarded as being approved. It usually takes 2-7 days from investment application to holding of Approval Council and it is held at least twice a month.



Source: JICA Study Team based on interview with ANAPI

Figure 6-4 Flow of Investment Approval at ANAPI

The Approval Council consists of 14 members and is chaired by the Minister of Planning. The main members are from the Prime Minister Office, the Presidential Office, the Tax Office and the relevant ministry in charge of the prospective investment sector. The Approval Department not only prepares for necessary documents as a secretariat for the Council but also participates in the Council as an observer. In addition, if the Council decides it needs to interview the prospective investor in advance, one representative from the investor can participate in the Council.

The investment approval with its approval content is regulated by the above Interministerial Decree (L'Arrêté Interministériel d'agrément). According to the Article 7 of the Investment Code, the main content of Interministerial Decree is as follows:

- Objective and place of investment and prospective day of starting operation

- Identification of investment and agent of application
- Program of investment, investment period and implementation schedule
- Production target when investment plan is realized
- Content of approved incentives, duration, and conditions
- Obligation of approved company and state and conditions for participating the approved project
- List of capital goods in the framework of the approved project
- Number of employment generation
- Procedure for dispute settlement
- Oversight by the relevant government agency and its conditions

(2) Analysis of Present State and Issues

It is rather difficult to prepare all the necessary information related to investment approval such as technology, finance and environmental impact, and most of the companies interviewed by JICA Study Team assign consultants and lawyers to prepare investment application. In addition, some of the companies have pointed out that investment approval actually takes 3 to 4 months including the period of negotiation and resubmission of documents. ANAPI is providing facilitation service for the preparation of investment approval such as acquiring land, obtaining construction permit, and environmental impact assessment. Upon investor’s request, ANAPI can also accompany to visit the relevant municipal government and represent the investor to obtain necessary permits. However, according to interview with private investors, although ANAPI is appreciated by large companies for its proactive support for investment approval and other necessary business licenses, its service is not much catering for Small and Medium Sized Enterprises (SMEs).

(3) Direction of Improvement

In the future, ANAPI should improve its advisory service to investors that include SMEs so that they can provide more detailed information and support with related to investment and business license.

6.2.3 Taxation and accounting systems

(1) Overview of systems and procedures

1) Overall tax system

While in the past legal entities doing business in the Democratic Republic of the Congo were required to prepare proper accounting books and audited statutorily pursuant to the Congolese General Chart of Accounts, Plan Comptable Général Congolais (PCGC), starting with fiscal years in 2014 and all the years that follow since the nation joined OHADA in 2012[61] they shall meet the OHADA accounting rules and regulations. Each country is permitted to apply its own local rules regarding detailed enforcement regulations if not stipulated by OHADA, as long as they do not

[61] OHADA’s accounting rules and regulations differ in many ways from the accounting standards that applied in member states. Activities are underway at present to converge the differences in those standards through discussion within the OHADA accounting committees.

conflict with the overall policies of the OHADA legal system. For example, in the area of taxation, decrees (Decrét) have been issued regarding the corporation tax enacted in 2013, Impôt sur les bénéfices et profits(IBP) as well as value-added tax (Taxe sur la Valeur Ajoutée: TVA), tariffs, and other matters, and practical course of actions have been published mainly in French at present.

The tax authority, the Direction Générale des Impôts (DGI) consisting of Direction Générale des Douanes et Accises (DGA) and Direction Générale des Recettes Administratives, Judiciaires, Domaniales et de Participations (DGRAD) based on their area of jurisdiction, is under the Ministry of Finance as a competent authority and is authorized to oversee various tax-related matters (e.g., taxation, tax collection, refunds, and tax litigation). Although they do not exercise legislative power, there is some leeway for regional governments to decide on their own where tax rates are not specified by law locally. Some authority for taxation and tax collection such as land and rental tax are delegated to regional governments. The main taxes levied on companies in the DRC are shown below.

Table 6-5　Main tax burdens for companies

Tax	Rate (%)	Remarks
Corporate income tax	30, 35	The mining industry is subject to tax as prescribed in the Mining Code. For instance, in addition to the corporate income tax (rate: 30%), property tax and vehicle tax, which apply to materials and equipment, and tax on owners of rights to resources.
Branch office tax	35	
Withholding taxes:		
Dividends	20	10% for the mining industry
Interest	20	Tax exemption for the mining industry
Royalties	20	
Services	14	This withholding tax applies to payments for services provided to Congolese companies by foreign companies and individuals without a permanent establishment in the DRC. The tax base is the gross amount of the applicable invoice.
Value-added tax (TVA)	16	This tax applies to various products and services when provided in or imported to the DRC, not including duty-free articles.
Industrial promotion tax (TPI)	2	This tax is based on the total amount of the CIF values of imported raw materials plus customs tariff, and the sale price in the DRC.

Source: Prepared by JICA survey mission based on results of field interviews

2) Corporate Tax system (IBP)

Business entities registered in DRC are considered to be engaged in business activities and subject to corporation tax on income sourced within the country if they satisfy either of the following conditions:

- It possesses a material facility (for example, head office, branch office, factory, and sales counter) or any other fixed or permanent business of a productive nature.

- In the absence of a material facility, it carries out a professional activity under its corporate name for at least six months.

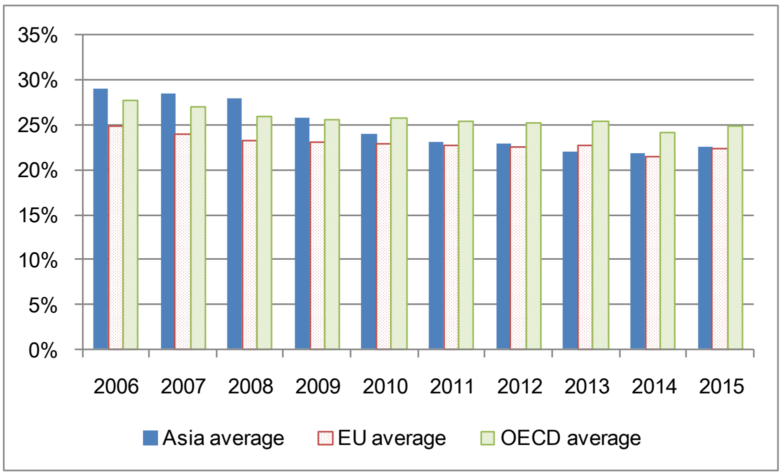
Taxable income is based on financial statements prepared in accordance with principles set by OHADA accounting acts. This amount equals gross income minus business expenses incurred during the tax year to acquire and retain the income. Business expenses are generally deductible unless specifically excluded by law. The fiscal year extends from January 1 through December 31, and tax returns must be filed by April 30 of the following year. Corporate tax must be paid in two installments before 1 August and 1 December. Each installment must be equal to 40% of the previous year's tax. The balance of tax due must be paid by the following 30 April[62]. The amount of corporation tax has special treatment for small and medium-sized businesses reflecting their annual turnover. Details are shown below.

Table 6-6 Taxes on the annual net sales for small and medium-sized businesses

Classification	Tax payable
For corporations with annual revenues of less than CDF10 million	CDF 50,000
For corporations with annual revenues between CDF10 million and CDF80 million	1% of the annual revenue for sales of goods and 2% for the provision of services
For corporations with annual revenues more than CDF 80 million	Amount shown on income tax return or 1% of the annual revenue as minimum tax payable

Source: Prepared by JICA survey mission based on results of field interviews

Current corporate tax rate in the DRC (35%) is stuck at a high level by international standards. Since 2000 various governments have been in a race to lower corporation tax rate, and the average of its rate in the major areas of the world is in a downward trend, falling to the level of less than 25% in 2015 (see Fig. 6-5).



Source: Prepared by JICA survey mission based on KPMG Corporate Tax Rates Table

Figure 6-5 Comparison of corporate tax rates

[62] On the specific request of a taxpayer, tax losses incurred in a tax year may be deducted from profits in the following five tax years. The deduction of the available tax losses is capped to 70% of the annual tax profit.

3) Value Added Tax (TVA) system

In principle, TVA is incurred by consumers of products or recipients of services, and collected and paid to the government by those who provide those taxable transactions. A tax return is prepared monthly by calculating the difference, based on a tax invoice, between the month's TVA attributable to products sales and services (output TVA) and that to product purchases and services at a price from domestic as well as overseas (input TVA). Then, a tax declaration form is used for payment to a bank and its evidence is obtained from DGI. The taxable basis of TVA is prices of products and services (invoice prices), import tariffs, consumption tax on goods, and other components. The tax rate on all taxable transactions is 16%, while the rate is 0% for export transactions. For example, if an entity purchases raw materials for producing or manufacturing products within DRC and exports them to overseas market, output TVA becomes null due to zero-rate transaction and input TVA on goods corresponding to the export which is exempted. When taxes are overpaid, i.e., the amount of input TVA is larger than that of output TVA, a refund may be requested or the balance may be offset against TVA on sales due in the following month or later[63].

4) Accounting system

The Permanent Conseil Permanent de la Comptabilité au Congo (CPCC)[64], under the jurisdiction of the Ministry of Finance, is the organization that generally maintains and designs the DRC accounting system. Companies operating in DRC shall refer to OHADA accounting rules and regulations in making accounting records, settling accounts and their approval, and statutory audit. In practical terms, there are cases of foreign subsidiaries preparing two sets of accounting books: one to satisfy the requirements of DRC law and the other to the standards for listing of their parent companies in their home countries. Since it is allowed to maintain their accounting books denominated in USD or other foreign currency under the Mining Code Article 248, some in the mining industry prepare books in accordance with Generally Accepted Accounting Principles in the United States (U.S. GAAP). In addition, businesses, regardless of size or whether they are publicly traded or not, are required to undergo statutory audit by external auditors every year, but in fact most enterprises in the DRC do not respect this provision of the law. Some subsidiaries of foreign groups in mining, construction or, banking sectors are audited externally under the instruction of their parent companies' auditor's requirement.

With OHADA membership, a conceptual framework, an outline for financial reporting by giving more complete, clear and updated set of concepts such as the basic objectives of financial reporting,

[63] Companies in mining, constructing petroleum projects or those making large-scale investments of CDF 1 billion or more for purposes of acquiring land or plant facilities, their expansion, or renovation may request a refund of the TVA deduction.

[64] The organization is established in 1975 under Ordinance No. 75-024. It is authorized to formulate and implement measures in response to consultation from domestic and foreign companies regarding various accounting issues, provide advice on formulation of accounting laws, standards (e.g., Décret), and draft them.

basic definitions, and principles, was developed and efforts are being made to enhance the accounting structures. Because previous accounting standards used in the DRC, PCGC, was primarily intended for tax collection by the government, there was no such framework and not any standards for consultation in judging transactions encountered for the first time. Accordingly, this measurement was undertaken in order to address the situation that accounting records was judged and maintained by each company individually. In addition, an executive committee was established within the CPCC to promote the process of migration to International Financial Reporting Standards (IFRS) as an effort toward convergence on international accounting practices. Financial institutions are already required to process accounts in accordance with IFRS, and migration to IFRS by 2017 at large firms and publicly traded firms in telecommunications, logistics, mining, and other industries is under consideration[65].

(2) Analysis of status quo and challenges

1) Taxation and tax collection

Although laws and attendant regulations for doing business in the DRC have been improved to a certain extent with OHADA membership, there are issues to be tackled in the tax system.

- Tax rules and regulations are numerous and complex as well as promulgated and amended frequently, which causes problems with regard to their consistency, preciseness, and clarity.
- There are many examples of such double taxation by national and local authorities in the DRC[66]. This practice goes against the current international stream in which variety of measures are taken to avoid collecting multiple taxes on the same cause of taxation because it can impose severe tax burden to those engaging in transactions beyond their ability to pay.
- In addition to taxes collected nationally and locally, there also are levies and fees related to permission, approval, and issuance of official documents as well as specific local taxes and fees under Ministerial Decree, Interministerial Decree and Departmental Decree and those established to secure funding for local government budgets. Consequently, a considerable number of taxes involve issues with regard to the appropriateness and objectives of their assessment.
- Tax collection is arbitrary and inconsistent because there are numerous regulatory gray zones that leave room for interpretation of tax items with unclear tax rates or a lack of detailed rules for practical implementation. In fact, tax officials are not capable enough to perform their administrative duties and often abuse their position as tax collectors to engage in harassment, where tax authorities first demand large amounts and then, agree with a tax burden greater than that prescribed by law through negotiation[67]. The

[65] It is a transitional period for application of IFRS, and there are differences between OHADA accounting rules and IFRS standards: decision of fiscal years, valuation of tangible and intangible assets and financial instruments, accounting for R&D and incorporation expenses. Also, IFRS requires extensive notes as supplemental information to financial statements. In principle, companies in DRC shall keep accounting books in accordance with the OHADA Accounting Act, but if there are no provisions that can be referred, it is permitted to use IFRS instead.

[66] The Ministry of Water Resources collects tax on gas reserves, but because gas reserves are subject to TRA(Taxe Remuneratoire Annuelle de L'environnement) this results in double use of taxable transaction. Other examples of this double taxation, according to a company manufacturing and selling plastic products, includes VAT on raw materials as a national tax and special tax imposed by Kinshasa city at municipal level when products are sold.

[67] For example, a company was charged with additional tax payment when tax official realized that they have enough

unpredictability of tax assessment is another major negative element for the business environment.

- Due to the necessity to negotiate with the aggressive assessment and collection by tax authorities on a case-by-case basis, it is unclear and impossible for companies to predict the extent of the ultimate tax burden a company will face. In particular, it is very difficult to determine accurately whether their demand is appropriate as stipulated by law and, if so, which office will be the proper one to consult with.

In these ways, companies in the DRC must address plenty of vicious practices including the complex tax system, invalid penalty, and special governmental charges, which cumulatively lead to a considerable impact on their business costs. For instance, in addition to corporate tax at the top of the list, TVA was imposed on purchases of raw materials and import tariffs, they are obliged to pay TPI and contribution to INSS, INPP, and ONEM along with local tax burden at the lowest[68]. Considering these social security and administrative costs assessed by tax authorities and other governmental agencies, the actual tax burden borne by a company amounts to about 60-65% of its net income. This assessment exerts pressure on company's earnings because it is difficult to shift the burden to product prices, which sometimes results in large-scale restructuring and ultimately plants closure[69]. Against this backdrop, there are problems in the efficacy of tax assessment and collection, and the fact that tax-related impropriety and corruption are present from the upper echelons of tax authorities down to the staff level poses the greatest risk of doing business in the DRC for investors.

At the same time, there are some issues faced on company side as well. For example, staff at accounting and tax divisions intentionally create errors in preparing accounting books, or destroy or conceal their documents and vouchers. After leaving for another company, they report to tax authorities that their previous employer uses improper accounting treatment. This behavior causes enforcement of additional tax burdens unless related transactions are verified in later tax audit. An incentive for such improper behavior is the fact that a whistleblower will be paid about 20-40% of the ultimate settled amount without having his or her information disclosed.

2) Improvement in taxation and tax collection

The greatest improvements in the area of taxation are a single window system of tax payment counters and simplification of some procedures. Whereas tax returns are still required for each tax item, physical locations are consolidated, and companies are not required to receive notification from DGI prior to filing a return any more. All they should do is first to go to bank for tax payment

cash balance in its bank accounts after a tax audit. A company was forced to pay more than three times the proper amount of tax following lengthy negotiations after an official notice demanding more than ten-fold appropriate tax due. A company got noticed of sudden introduction of sales tax from municipal officials as a percentage of sale prices for their products.

[68] It is said that one cement manufacturer paid a purchase price of 2.5 times the CIF value of imports.

[69] For example, British American Tabacco closed its plant in the DRC and decided to import and sell tobacco produced in Kenya in light of the large number of potential consumers. Other examples include food-processing companies in closure of its manufacturing section, preparation of withdrawal from its business, and substantial business contraction of its underperforming sections.

and, obtain proof of payment from DGI.

In the area of international taxation, in response to past corporate tax avoidance by foreign firms through transfer of income earned in the DRC to countries with lower tax burdens, the DRC government incorporates a transfer pricing system with the help from international donors. Under this system, amounts paid by a DRC company to a person or a foreign entity with which it is linked (through direct participation in its capital or through the holdings by one or more other companies in the same group) for services rendered are considered as normal transaction with third parties if such service values can be justified. If not, they are integrated into the corporate income tax base. For instance, royalties, fees charged as know-how or license and interest for financial transaction paid by a DRC company to another company within a group are included into the corporate income tax base for the company if the DRC Company cannot prove that the operation is real and that the amount paid corresponds to the actual value of the operation. For this reason, foreign investors are required to document transfer pricing, showing the fact that transactions among affiliated companies are justified and that the actual structure of group companies is appropriate, and they must provide such information if demanded by the tax authorities. If it has been determined that income has been transferred, then the tax authorities can amend the return[70].

Therefore, in order to get through these challenges, most companies operating in the DRC over a long period tend to hedge risks by outsourcing administrative services including hiring tax specialists or accountants

(3) Direction for improvement

All in all, the fact that tax authorities have a growing distrust towards financial figures submitted by companies because they have made false financial reports and evaded taxes, and the fact that the tax authorities do not pay their employees adequate salaries are the rationale behind high tax rate and inappropriate execution of the tax practices. This encourages corruption at the staff level to enrich them, resulting in unreasonable treatment against taxpayers. To break out of this vicious circle, the following actions should be taken.

1) Lowering tax rate and expanding taxation bases

First, priority should be given to lowering the effective tax rate by reducing the statutory tax rate, which is high by international standards. In examining amounts of corporation tax, foreign investors consider not just nominal tax rates but also effective tax rates, as the actual tax burden they must cover[71]. According to the Mirrlees Review, “the effective tax rate” has a decisive effect on

[70] The DRC has entered into double tax treaties with Belgium and South Africa.

[71] As used here, the effective tax rate is calculated using taxable income as the denominator and the amount of tax calculated using the standard tax rate as the numerator. Taxable income differs from accounting income not just in differences in tax law among countries but also preferential tax treatment for policy purposes such as promoting investment, deduction of foreign tax paid, carryover of deficits, and measures to cut down taxes such as reducing

companies' decisions on whether to produce in their own countries or overseas, and "the marginal tax rate" reflects policy measures such as preferential tax treatment, and "the statutory tax rate", which affects where multinational corporations will retain their earnings, are important indicators impacting the level of investment in a country[72]. At the same time, other measures may include changing the taxation bases and expanding the role of the corporate sector in the economy by reforming the distorted economic structure in which the informal sector accounts for a large share. In particular, in a business environment that seems unfair, with impediments to fair competition, apart from mining industry with its absolute competitive advantage in the DRC, it would appear that investors will shift business toward commerce in general, rather than agriculture which involves employment and longer term investment or manufacturing which incurs employment and capital investment, because they determine that the returns are too low for the risks of investment.

2) Public financial management and accountability in government sector

With regard to the various and diverse burdens imposed by the government of the DRC and local governments, it is necessary, at a minimum, to show that administrative services for which such taxes are collected are clearly provided for their intended purpose.

3) Improvement of accounting system and training accounting professional

An issue concerning accounting in the DRC is that the pre-OHADA accounting standards (PCGC) are not applied properly to SMEs and other businesses. Furthermore, while the OHADA accounting rules and regulations has been rolled out from the DRC membership, the PCGC are still used by local enterprises. Then, migration into the new standards is an issue for local firms. This is mainly because accounting information is not supplied sufficiently, or misinterpreted, and accounting personnel is not experienced enough. Accordingly, the first effort shall be to have OHADA standards steadily prevail within the DRC, and then advancing the migration to IFRS as international accounting standards in the future. Towards this end, it is essential not only for spread information through seminars but also by enhancing university curricula and preparing accounting training programs and continual capacity-building activities for those currently employed in accounting fields.

6.2.4 Land Acquisition and Registration of Property

(1) Overview of System and Procedure

After independence in 1973, DRC promulgated Law No. 73-21 dated July 20 1973 regarding general system of property, land and real estate system, and guaranty system (Loi no.73-21 du 20 juillet 1973 portant régime général des biens, régime foncier et immobilier, et régime des sûreté: "the Land

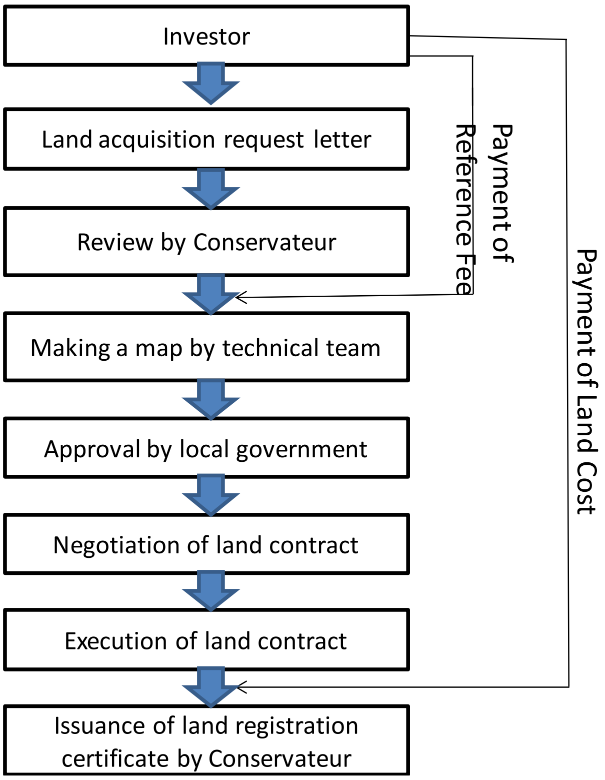
taxable income by tax planning. It is difficult to conduct general international comparison of effective tax rate taking this into consideration.

[72] Auerbach, A.J, M.Devereux, and H.Simpson (2007) "Taxing Corporate Income", Paper Prepared for The Mirrlees Review, Reforming the Tax System for the 21st Century

Law"). According to Article 53, land is the property of the state and it has exclusive, non-transferable and unlimited nature. Since land ownership right belongs to the state, individuals or companies only have right to use (usufruct) land. Under the law, two types of rights are granted: "Permanent Concession" and "General Concession". While the former is aimed at individuals who have DRC nationality, the latter is aimed at corporate and foreigners and maximum 25 year concession (which is renewable) is allowed. On the other hand, concerning land that has been occupied by local indigenous community under traditional right, Article 389 stipulates that although land basically belongs to the state, its operational guideline is to be regulated by separate Presidential Decree, which has not been issued yet. The land permission system based on the size of land owned by DRC government is as follows.

0～10 ha	Head of municipal government
10～200 ha	Head of provincial government
200～1000 ha	Minister of Land Affairs
More than 1000 ha	Parliament and President

If government approval has already been received by company A, no new approval is needed for sale and transfer to company B. Only new registration is required. The approval and land registration process for government owned land (in case of smaller than 10 ha) is illustrated in the following figure.



Source: JICA Study Team based on various source and interview with the Ministry of Land Affairs。

Figure 6-6 Land Registration Flow in DRC

1. At first, an investor submits request letter of land acquisition to the manager of the Ministry of Land Affairs (called "conservateur") who resides in the area where the investor intends to acquire (280 concervateur are residing at each municipality in all over DRC).
2. The conservateur checks the availability of land based on the request letter, and if it is available, contacts the investor. The investor will pay prix de reference (reference fee) which is defined by the Ministry of Land Affairs to the bank account held by the Ministry of Finance (MOF). The reference fee varies according to the region. For example, the fee for downtown of Kinshasa is USD0.25/m^2 which is the most expensive and the most remote area like Urbano-Rurales is only USD 0.035/m^2.
3. Once the reference fee is paid and confirmed by the Ministry of Finance, a technical team is formed. The team makes a map by conducting detailed survey (related to soil, environment and measurement).
4. Based on the map, the concerned municipal government gives permission of land transfer and conducts negotiation of its terms and conditions with the investor.
5. If both parties agree with the above terms and conditions, they execute land transfer agreement and the investor pays the land cost to the bank account of MOF.
6. The conservateur confirms the payment of land cost and issue land registration certificate.
7. According to the interview with the Ministry of Land Affairs, the above process takes about 30 working days. It should be noted that if the land is for housing development, the construction of housing should start before issuing land registration certificate. In addition, if the land is for industrial use, the industry has to start to operate within 7 years after the issuance of the certificate. If the investor fails to operate within the above period without having justifiable reason, the land registration will be nullified and become void.
8. According to Doing Business 2016, the DRC's ranking for registering property is 135th which is the same as the year earlier. Compared with the average of Sub-Saharan Africa, DRC's number of procedures is slightly more, required time is shorter, necessary cost is slightly higher, and the quality of land administration is a little higher. As a whole, DRC's process can be regarded as the same level as Sub-Saharan Africa's.

Table 6-7 Comparison of Land Registration between DRC and Sub-Saharan Africa

Indicator	DRC	Sub-Saharan Africa
Procedures (number)	7.0	6.2
Time（days）	44.0	57.5
Cost (% of land cost)	9.5	8.3
Quality of land administration[73]	11.0	8.4

Source: World Bank, Doing Business 2016

(2) Efforts of Improvement by DRC Government and Donors' Support

The Land Law promulgated in 1973 has not been amended yet. In DRC, even before colonization, there had been a social norm (unwritten law) that land ownership belongs to indigenous people, which has caused various conflicts with respect to land acquisition due to inconsistency between

[73] The indicators related to the quality of land administration consist of the following 4 aspects and are evaluated in 0 to 30 figure (quality is higher if the figure is higher): Reliability of infrastructure; transparency of information; geographical coverage; and settlement of and land disputes.

written law and unwritten law. It is said that at least 80% of civil cases in DRC are related to land affairs. Therefore, in 2013, the Ministry of Land Affairs organized the National Commission of Land Reform (Comission Nationale de la Réforme Foncière: CONAREF) which consists of various stakeholders such as government, donors like World Bank, European Union (EU) and United Nation Human Settlement Program (UN-Habitat), NGO and local communities, to discuss land reform.

(3) Issues and Direction of Improvement

The above mentioned CONAREF has formulated 105 action plans to implement land reform such as digitalization of land ledger, centralization of land registration system, clarification of rights of local indigenous people, simplification of land registration system. However, as DRC government has not secured the necessary budget, it only has started limited activities. In order to implement land reform, in particular, simplification and unification of land registration system (that is currently separated into various layers of approval authority in accordance with the size of land), digitalization of land ledger and centralization of land registration system are issues urgently to be addressed.

In addition, according to interviews with tax consultants, in DRC when investors acquire land, they have to pay a fixed asset tax and general land concession license fee (Redevance Sur Les Concessions Ordinaires：RCO). Since RCO is discrinately imposed on foreign investors, it not only lacks fairness of taxation but also discurranges appetites of property investment from foreign companies. In this regard, the above mentioned discriminatory tax system regarding land aquisition should be reexamined in order to promote foreign investment.

6.2.5 Labor system

(1) Overview of system and procedures

1) Labor law and taxation for employment and foreign expatriates

The main legal basis for the DRC’s labor system is the labor code (Loi 015-2002 du 16 octobre 2002 portant code du travail), which covers matters including forms of employment, compensation, working conditions, and employment of foreign workers. The main payroll taxes and social-security costs incurred by companies doing business in the DRC are shown below.

Table 6-8 Main payroll taxes and social-security costs by companies in the DRC

Tax	Rate (%)	Remarks
Payroll tax	30	Fixed rate of 30% applies to Annual income exceeding CDF 22,956,000 Progressive tax rate of 0-40% to Annual income not exceeding CDF 22,956,000.
Foreign resident employee tax (IERE)	25	10% for the Mining industries
Contributions to Institut national de sécurité sociale (INSS)	-	Paid by employer: 9% of amount of compensation Paid by employee: 3.5% of amount of compensation
Contributions to Institut national de préparation professionnelle (INPP)	-	1-3% of amount of compensation

Tax	Rate (%)	Remarks
Contributions to Office National de l'Emploi (ONEM)	-	0.2% of amount of compensation

Source: Prepared by JICA survey mission based on results of field interviews

The distinguishing feature of the DRC's labor system is its focus on protecting the rights of workers. Employee dismissal must be conducted cautiously. For example, when 10 or more workers are dismissed, retaining elder people is given priority, and after that the workplace attitude and job performance is taken into consideration. Then, the individual employees and the labor union must be notified of the dismissal three months in advance, and the approval of the Ministry of Labor must be obtained. In applying for this, the authorities will send inspectors to verify the matter of facts, in some cases the Ministry of Labor might not approve it if the company cannot have good reason to do so. In addition, labor rules to be complied within the DRC are very strict with regard to dismissal of employees and, are usually beneficial to workers in the legal disputes concerning employment regulations.

2) System of employing foreign expatriates and its reality

Foreign expatriates planning to work in the DRC must complete certain procedures such as obtaining a work permit from the Ministry of Labor and submitting the specified documents (e.g., application form, employer information, employment contract, certificate of employment) to the Immigration Administration. Types of available visas include standard resident visas (three years) for those employed in commerce and the professions (e.g., doctors and attorneys) and work visas (one to two years). In addition, employment of resident staff requires the employer to demonstrate that it cannot secure local personnel having the same levels of knowledge and experience.

The DRC government expects that expertise from foreign firms will help improve local workers' skills. In terms of policy, it has established specialized treatment for training high-skilled human resources in the Investment Code, Agricultural Code, and Mining Code, permitting extensions of lengths of stay and preferential income-tax treatment, tax reduction, for those who possess advanced skills. At the same time, the DRC has limits on the number of resident officers companies may employ, corresponding to their total numbers of employees in a company. It is estimated that foreign investors will need many representatives from headquarters in starting up a business, and requirements related to numbers of employees. The timing of transfer of responsibilities to local personnel is not applied strictly.

3) Workforce training

Institut National de Préparation Professionnelle (INPP) provides accelerated training for new workers, on-the-job training upon hiring, training on specialized abilities, and job training in technical and specialized schools. It is the largest public vocational training organization under the Ministry of Labor and established for the purpose of securing industrial workforce. INPP not only organizes training at its premise but also sends instructors to companies on demand. It is financially supported by contributions from enterprises which register themselves in their formation and pay the designated amount in accordance with the number of employees. The rate is set at 1-3% of the contribution.

(2) Analysis of status quo and challenges

According to the interviews, few companies identified problems with procedures for obtaining work permits and visas for employment of foreign representatives. While the procedures are administratively complex, requiring submittal of documents to various offices for approval and then completing procedures for the final permit, the majority of interviewees said that the entire system was straightforward and approval was finally given over time. Some companies reported using the INPP's job-training services to hire skilled local employees. In contrast with several years ago, the organization was assessed to be providing services that meet the companies' needs, and to be adequate for conducting general training. On the other hand, companies need to send employees overseas for training for specialized positions such as highly specialized electrical or mining engineers at their own expense. Issues related to the employment system in the DRC are described below in detail.

- Important posts were dominated by foreign expatriates at most of foreign-affiliated companies. However, prioritization of employing local staff is not mandatory regardless of the specification in the DRC law. It would appear in fact that some companies sign up a local CFO by his ability. It would be beneficial from a business cost perspective to choose personnel in the DRC if their skill levels are equivalent to those of foreign representatives, and it is realistic to transfer authority to the DRC people, but at present there is still room for improvement in terms of local staff's skills.
- Tax on services (14%) by short-term business visitors from a head office, and higher tax on salaries of foreign expatriates (30% on normal salary plus 25% special tax for normal businesses (IERE) or 10% for mining businesses) are considered problematic as business costs. Furthermore, it is often pointed out from foreign companies that these costs clearly reflect government's intent of not welcoming talented foreigners. In light of the current situation in the DRC, it should instead promote technology transfer actively by encouraging the visit or residence of foreign engineers. According to a staff of a cement manufacturer that began business in the country last fiscal year, hurdles for approval of work permits for foreign resident staff appear to be increasing, so that the policy of forcing transfer of key posts to local personnel seems to be strengthening.

(3) Direction for improvement

As a course of action for responding to these conditions, there is a need for policies to underpin expert human resources.

1) Improvement of employment system for foreign experts

Tax on business visitors and special taxes on foreign expatriates seems to be intended for forcing delegation of authority by foreign investors to locals with tax charges. Both of these taxes impose additional duties on them because the rate is high enough and these burdens cannot be deducted from the taxable income of the companies paying such compensation foreign experts serve. In order to facilitate recruiting experts with technology and knowledge, it would be desirable for the tax obligations on foreign workers to be revised in a lower direction. For example, having many visa statuses available permit employment (working visas) with periods of stay specified for each visa status as it is done in Japan. Of these, statuses for highly skilled professionals offer advantageous treatment for immigration purposes, such as an unlimited period of stay when certain criteria are satisfied. It is conceivable that the DRC too needs to set up flexible periods of stay for the skills considered necessary from policy point of view.

2) Human resource development in the DRC

With regard to their preferential hiring, some companies have training programs to improve employees' skill levels or open the doors to local personnel for career steps such as promotions and transfer to the foreign countries. Others entrust even CFO, local managerial, sales, and logistics positions; thus many companies are focusing on efforts to train local personnel uniquely without relying on the government support. In order to give a boost to their effort, while JICA provides services for developing industrial human resources, there is a need for enhancement to train human resources with the skills that investors seriously need.

6.2.6 Foreign Exchange and Remittance System

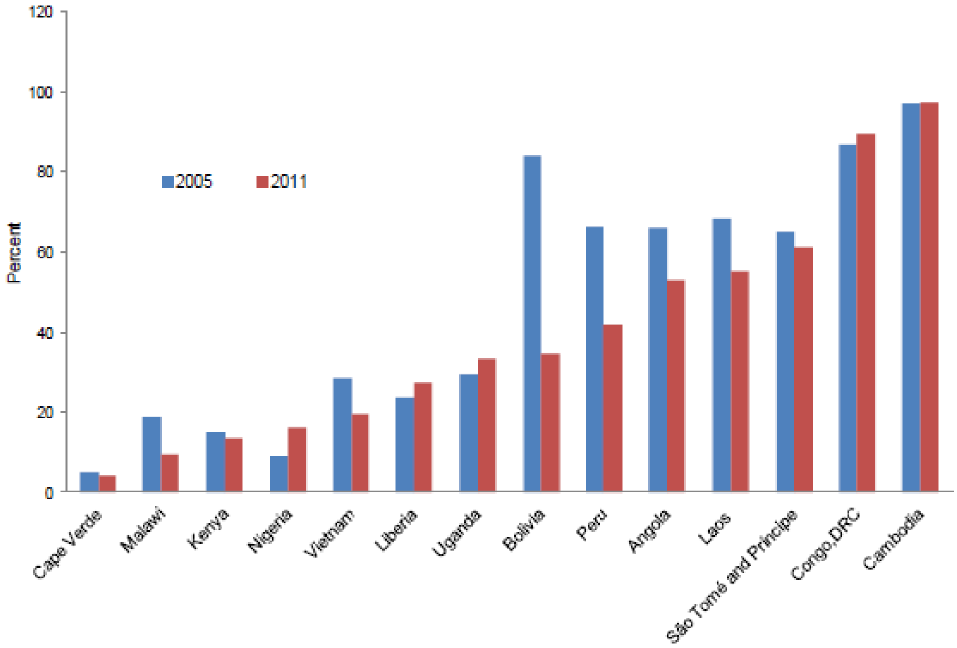
(1) Overview of System and Procedure

DRC has basically liberalized its foreign exchange system and money is freely convertible for any currency in terms of capital transaction and current transaction. The main rules and regulations related to foreign exchange control are: Ordinance-law No. 67-272 dated 23 June 1967 concerning the regulatory authority of Bank Central Congo in the matter of Exchange Control such as amendment and enactment (Ordonnance-loi n°67/272 du 23 Juin 1967 relative aux pouvoirs réglementaires de la Banque Nationale du Congo en matière de Réglementation du Change, tel que modifiée et complétée à ce jour); Decree-law No. 4/2001 dated 31 January 2001 concerning operation system of national and foreign currency in DRC (Décret-loi n°004/2001 du 31 janvier 2001 relatif au régime des opérations en monnaies nationales et étrangères en République Démocratique du Congo); and Circular of Bank Central of Congo dated 22 February 2001 (Circulaire de la Banque Centrale du Congo du 22 février 2001). According to the above regulations, possession, remittance and deposit of foreign currency more than USD 10,000 equivalent requires application to commercial banks with supporting documents and also applicants have to pay 0.2% of the exchange amount as foreign exchange royalty fee. Since commercial banks are delegated authorization authority from Bank Central of Congo (BCC), applicants can transfer money as soon as they complete the application at teller windows.

In the mining sector, according to the recent amendment of BCC regulation, exporters of mining products have to hold at least 40% of foreign currency earned by export proceeds at bank account in DRC (Article 77, Journal Officiel-28 Mars 2014: La Reglementation du Change en RDC). As no limitation is imposed except for the above 40% amount, exporters can freely use the remaining amount for making settlement of import of raw materials and capital goods. Furthermore, recently BCC has amended the above mentioned regulation to change remittance timing from within 30 days to 60 days after export transaction date (Article 32, Journal Officiel-28 mars 2014: La Reglementation du Change en RDC), which allows exporters improve their cash flow since they used to have to transfer money before they collect proceeds from export transaction.

On the other hand, in DRC, as dollarization has been progressing, all business transaction can be settled in US dollars except paying tax. In addition, commercial banks hold 90% of their assets in USD and most of their customers require credit in USD. In this regard, so called "Payment Dollarization and Financial Dollarization" has become widespread in the country.

As the following figure illustrates, DRC is the most dollarized country in the world only behind Cambodia.



Source: IMF (November, 2013), "Making Monetary Policy More Effective: The Case of the Democratic Republic of the Congo"

Figure 6-7 Foreign Currency Deposits as Share of Total in Dollarized Countries

While dollarization has the benefit to allow DRC to act as financial intermediary, it has substantially lost credibility for DRC's currency and limited financing activities. Other drawbacks are as follows[74]:

[74] Zamaroczy, Mario de and Soponha Sa (2002), "Macro Economic Adjustment in a Highly Dollarized Economy:

- Domestic dollar interest rate is influenced by US market trend and it is difficult to measure supply of dollar deposits in domestic market, which also makes it difficult for the central bank to implement proper monetary policy;
- Since domestic currency supply for investment and working capital is limited, the central bank cannot play the role "as lender of last resort" ; and
- If US dollar appreciates against other major currencies, the country's export competitiveness will be weakened.

(2) Analysis of Present State and Issues

According to interview with BCC, although DRC government targets to move to de-dollarization, the government will promote it, not by compulsory measures, but in a way that has benefits for the people. It has already implemented paying Congolese Franc (CDF) for taxation and salary of civil servants. It is also making a study of issuing 100,000 CDF banknote which is equivalent of 100 USD since currently people have to carry a big volume of CDF notes due to its weak value against USD. However, according to interviews with commercial banks, it is regarded to take a long time to implement de-dollarization due to the bitter memories of drastic devaluation.

(3) Direction of Improvement

As it has been mentioned earlier, foreign exchange transaction is basically free in terms of foreign remittance and borrowing credit from overseas without obtaining prior permission from BCC as long as there is no risk for money laundering. According to interviews with commercial banks and private companies, there is no voice pointing out problems for foreign exchange transactions. On the other hand, in the medium- and long-term, DRC should gradually move to de-dollarization to enable BCC to implement effective monetary policy. In this regard, capacity building of BCC in implementing proper de-dollarization policy measures is required

6.2.7 Finance

(1) Overview of System and Procedures

In DRC, as there is no capital market, corporate financing measures are limited to the indirect financial system. Companies can access credit from banks and Non Bank Financial Institutions (NBFIs). According to BCC 2014Annual Report, however, the banking sector dominates the financial market with 95% of its market in terms of asset. As far as NBFIs are concerned, according to the above report, there are 26 Micro Finance Institutions (MFIs), one saving bank, 3 Specialized Financial Institutions : Industry Promotion Fund (Fonds de Promotion de L'Industie: FPI) ; Development Finance Corporation (Societe Financiere de Developpement: SOFIDE) ; National Microfinance Fund (Fonds National de la Microfinance: FNM), 3 Financing Companies like mobile banking, 103 cooperatives, 55 money remittance companies, 15 money exchange bureaus and one state owned insurance company.

The Case of Cambodia", Working Paper, IMF 02/92

18 commercial banks are classified in terms of asset size: 4 large banks (Rawbank, BCDC, TMB, BIAC); 10 medium banks (FBN Bank, ECO Bank, BGFI Bank, Standard Bank, ProCredit Bank, Citibank, Bank of Africa, Sofibanque, Afriland First Bank, First International Bank); and 4 small banks (UBA, Access Bank, Advans Bank, Byblos Bank). The profile of 18 commercial banks in the end of 2014 is shown in the following table.

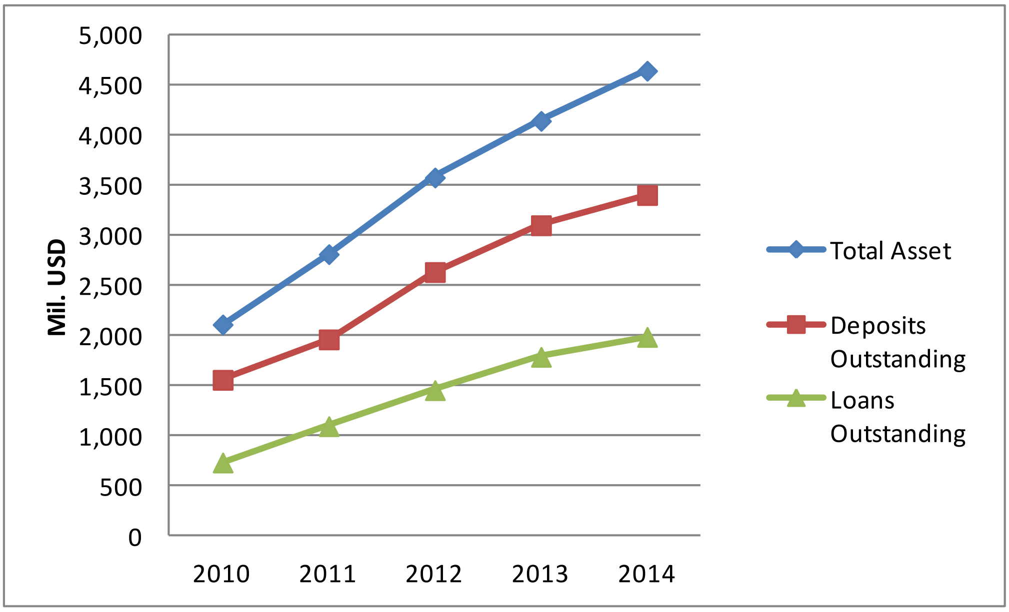
Table 6-9 Profile of Commercial Banks in DRC（2014

（Unit：thousand USD）

No.	Name	Asset size	Deposit outstanding	Loan outstanding	Nationality of the largest shareholder
1	Rawbank	942,695	686,091	335,387	India
2	BCDC	589,458	458,150	258,186	Belgium
3	TMB	575,985	509,485	193,683	DRC
4	BIAC	545,399	413,276	275,056	Belgium
5	FBN Bank	345,062	284,187	182,545	Nigeria
6	ECO Bank	287,155	203,537	111,613	Togo
7	BGFI Bank	249,051	145,251	118,745	Gabon
8	Standard Bank	232,211	179,107	41,095	South Africa
9	ProCredit Bank	204,894	163,930	95,029	Kenya
10	Citibank	130,613	90,906	38,275	US
11	Bank of Africa	124,372	64,747	86,119	Mali
12	Sofibank	86,142	57,446	36,462	Lebanon
13	Afriland Bank	74,408	26,981	53,971	Cameroon
14	FI Bank	71,062	45,597	34,857	Gambia
15	UBA	65,902	16,800	42,636	Nigeria
16	Access Bank	61,576	42,397	35,749	Nigeria
17	ADVANS Bank	36,321	10,396	29,034	Luxembourg
18	BYBLOS Bank	27,967	9,255	21,237	Lebanon
Total		4,650,273	3,407,539	1,989,679	

Source: JICA Study Team based on BCC Annual Report 2014 and other information

As the figure below shows, from 2010 to 2014, the track record of banking sector indicates high growth trend in terms of total assets, deposits outstanding and loans outstanding. In addition, having seen high growth of DRC's banking sector, other African banks have been acquiring DRC's commercial banks (e.g., ProCredit Bank acquired by Equity Bank in Kenya, Banque Internationale de Credit acquired by First Bank of Nigeria, etc). Furthermore, although DRC's bank finance used to concentrate on corporate banking for large companies, commercial banks have the tendency to increase retail banking business (including SME banking) in the last several years so that they can realize higher profit margin[75].



Source: JICA Study Team based on BCC Annual Report for Each Year

Figure 6-1 Trend of Performance of DRC Banking Sector（2010-2014）

The top four banks that occupy 57% of asset of banking sector in DRC, are basically owned by families and have been pointed out as having governance problems from international donors[76]. In addition, according to interviews with commercial banks, the growth of retail banking will be most likely to slow down since Non Performing Loan (NPL) ratio of loans for SMEs and individuals are getting higher.

Interviews with BCC and some commercial banks also reveal that approximately 60% to 70% of deposits belong to current accounts and saving accounts, and percentage for time deposits for longer than one year is very small. Therefore, short term loans such as overdraft and shorter than 1 year term loans have been the great majority of bank loans since it would cause maturity mismatch between loans and deposits if banks offer medium-to long-term loans and eventually create a funding risk. Currently although interest rate for short-term working capital loans has been declining to 8-12% per annum[77], the rate is still regarded as rather high for smooth business operation from private investors’ perspective. The collateral conditions for commercial loans are varied from no requirement to 150% security of loan amount (mainly for SMEs banking), which are decided case by case, depending on the risk assessment of customers’ credibility and transaction relationship with the bank.

[75] As background of this trend, it can be explained by the factors such as obligation for civil servants’ payrolls paid through banking system; increase of income standard for civil servants and corporate employees; and hard competition of corporate banking business among commercial banks.
[76] IMF, “Democratic Republic of Congo Financial Sector Stability Report”, October 2014.
[77] On the other hand, deposit interest rate is 3-6%, which means banks are enjoying large spread.

(2) Analysis of Present State and Issues

Although medium-and long-term credit is handled by the above mentioned state owned SOFIDE and FPI, they are not appreciated by private sector because: size of loans is relatively small[78]; collateral conditions are stringent; interest rate level is similar to other commercial banks (7-9%); and high commissions are charged in addition to interest[79]. Under the circumstance, DRC government injected USD 22 million in SOFIDE in 2012 to augment its capital. As for FPI, the government has been trying to expand its medium-and long-term financing by inviting international investors from such as Development Bank of South Africa (DBSA), Industrial Development Corporation、and Exim Bank of India.

In addition, with a view to diversifying financing tools for SMEs and promote leasing business, DRC government promulgated Law No. 15/003 dated 12 February 2015 relating leasing **(**Loi n° 15/003 du 12 février 2015 relative au crédit-bail) and provided fiscal incentive such as granting amortization cost of immovable serving to the exercise of profession to be deductible from the lessor-credit by amending of the past regulation.

(3) Direction of Improvement

According to interviews with private companies, some issues related to finance such as high interest rate and difficulty to procure medium-and long-term investment capital have been pointed out as a bottleneck of business expansion. In case of large companies owned by foreign investors, the above issues are not very problematic since relatively cheaper and long-term credit is available from their mother companies abroad. However, as far as SMEs of manufacturing sector are concerned, the issues are more serious as they may sometimes need to procure working and investment capital from local market.

As for state owned development finance institutions like SOFIDE and FPI of which mission is to provide medium-and long-term financing to SMEs with lower interest rate, DRC government should improve their organization and operation capacity as currently they are not regarded as attractive and supportive financial intermediaries from private sector.

6.2.8 Dissolution and Liquidation of A Company

(1) Overview of System and Procedure

As mentioned earlier, DRC has adopted Uniform Company Act since the participation to OHADA, which regulates dissolution and liquidation of corporation in Book 7 of Part 1. According to Article 200, the following seven events are listed as grounds for dissolution of a company.

[78] The total asset size of both SOFIDE and FPI is around USD 70 million.
[79] In case of FPI, in principle 150% security of credit amount is required. Besides, as management fee and monitoring fee, 3-4% of total credit amount has to be paid by borrowers in addition to interest. Furthermore, some banks and private companies have pointed out that its credit appraisal process is not transparent.

i) Expiry of the period for it was formed;
ii) Realization or extinction of its object;
iii) Annulment of the company's partnership deed;
iv) Decision of the partners under the conditions provided for amending the Articles of Association;
v) Premature dissolution pronounced by the competent court at the request of a partner for justified reasons, notably in the case of non-performance by a partner of his obligations or misunderstanding between partners hampering the normal functioning of the company;
vi) A court judgment ordering the liquidation of the company's assets; and
vii) Any other reason provided by the Articles of Association.

Upon the dissolution of a company, it has to start the liquidation process. The following table summarizes the outline of liquidation procedures for commercial companies in DRC.

Table 6-1 Outline of Liquidation Procedure of A Company in DRC

No.	Item	Procedure Content
1	Decisions of dissolution of a company	After the dissolution is decided by extraordinary partners meeting, the certified acts or reports deciding the dissolution shall be submitted at the court registry.
2	Public notification of a company's dissolution	The dissolution shall be published through a notice in a newspaper empowered to publish legal notices of the place of the registered office.
3	Appointment of a liquidator(s)	The liquidator shall be appointed from among the partners or third parties. The liquidator may be a corporate body. In case the partners are unable to appoint a liquidator, he/she may be designated by a court decision at the request of any interested party.
4	Implementation period of liquidation	The liquidation shall be closed within a period of 3 years. Otherwise, the public prosecutor's office or any interested party may bring an action before the competent court within whose jurisdiction the registered office of the company is located for the liquidation of the company or, when the liquidation has started, for it to be completed.
5	Decision of the completion of liquidation	The partners shall be convened at the end of the liquidation by extraordinary meeting to take a decision on the final financial statement, the discharge of the liquidator in respect of the performance of hi/her duties and of the terms of the reference and to record the close of the liquidation. In case the above meeting to close liquidation fails to take decision or when it refuses approve the liquidator's financial statement, the competent court shall rule on the statements and, if it is necessary, on the close of the liquidation, at the request of the liquidator or any interested party.
6	Submission of liquidation financial report	The final financial statement made by the liquidator shall be deposited at the registry of the court in charge of commercial matters, as an annex in the Trade and Personal Property Credit Register. At the same time, the decision of the extraordinary meeting of the partners on the liquidation financial statement, the discharge of the liquidator in respect of the performance his/her duties or the above mentioned court decision shall be appended to the Trade and Personal Property Credit Register.

No.	Item	Procedure Content
7	Application for removal from Trade and Personal Property Credit Register	The liquidator shall request the removal of the company from the Trade and Personal Property Credit Register within a period of one month from the date of publication of the close of liquidation.

Source: JICA Study Team based on Uniform Company Act

(2) Analysis of Present State and Issues

DRC government adopted OHADA Uniform Company Act in 2012 and Uniform Act Organizing Collective Proceedings for Wiping Off Debts in 2013. These laws have improved liquidation procedures in DRC by not only providing general guidelines of liquidation process but also allowing insolvent debtor to file for preventive settlement, legal redress or liquidation and setting out clear rules on the steps and procedures for each of the options available.

However, according to the interviews with some tax consultants in DRC, in practice sometimes it takes 4 to 5 years from a company's decision of dissolution to complete the liquidation by clearing debts through tax audit. For instance, although company A decided the closure of its business in 2012 and has ceased operation since that year, it still has not obtained permission from tax authority up to the present time. When tax office conducted tax audit, it unreasonably tried to impose profit tax on the ground of future expected profit as the company still had maintained its assets at that time. As this case indicates, if it takes long time and the cost for closing business is big , it is likely to be regarded as a significant risk to invest in DRC particularly from the perspective of foreign investors.

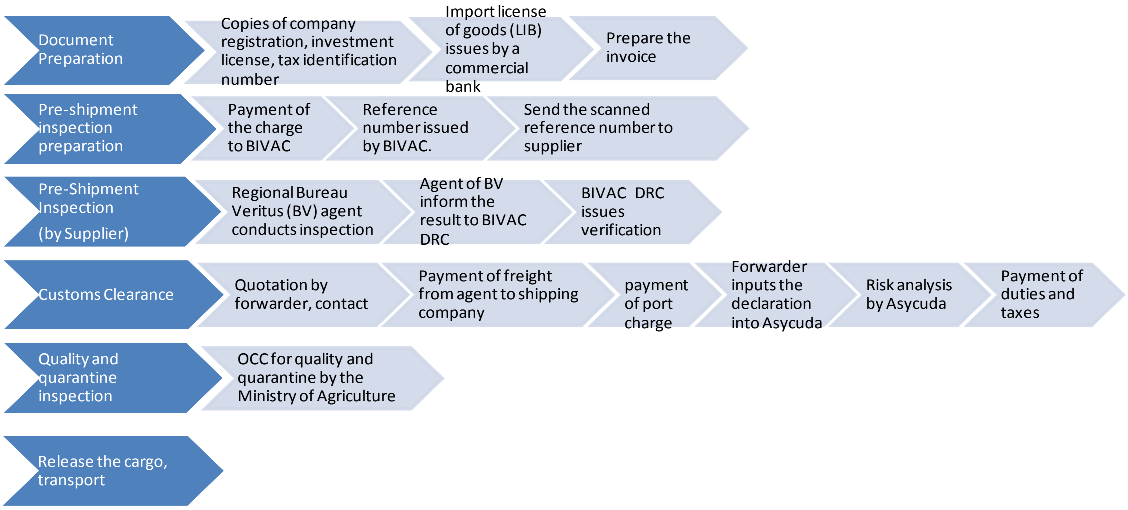
(3) Direction of Improvement

During the field survey period, JICA Study Team was not able to directly obtain liquidation information of actual cases adopting the above mentioned improved system. This is because the Uniform Company Act and Uniform Act Organizing Collective Proceedings for Wiping Off Debts have been adopted just recently and there are not many actual cases. As the liquidation process is supposed to be completed within 3 years, according to the Uniform Company Act, it will take some time to validate the effects of new liquidation system. In spite of that situation, however, DRC government should further improve the liquidation process by at least shortening the tax audit process and adopting better governance in the process.

6.2.9 Administrative Procedures for Trade and Customs Clearance

(1) Overview of the Export and Import

The figure below shows the flows of administrative procedures required for importation into DRC.



Source: JICA Study Team based on the interviews with logistics companies.

Figure 6-8 Flows of Administrative Procedures for Importation

Administrative procedures require attention to the following points:

1) Electronic Cargo Tracking Note for import (Fiche Electronique de Renseignement à l'importation: FERI)

In order to track cargo movement, exporters and importers are obliged to electronically register the details of import for tracking (Fiche Electronique de Renseignement à l'importation: FERI) managed by Office of Maritime Freight Management (Office de Gestion de Fret Maritim la Républic Démocratique du Congo: OGEFREM).The registration for FERI can be done via internet. In case FERI is not completed upon the arrival of the cargo at the port of entry, a penalty is charged.

2) Pre-shipment inspection

Inter-ministerial decision on the pre-shipment inspection for imported goods (Arrêté Interministeriel n° 106/CAB/MIN/FINANCES/2006 et n° 004/CAB/MIN.CE portant réglement d'application du contrat de verification avant embarquement des marchandises importées en RDC) obliges all the cargo exceeding FOB value of USD 2,500 to obtain the certificates of the pre-shipment inspection at the port of embarkation. The inspections are contracted to a group company of Bureau Veritus (BV), BIVAC International. The exporter receives the Report of Findings after the inspection. The pre-shipment inspection should be conducted by inspectors designated by BV in the proximity to the exporters. The inspection covers HS categorization and valuation. The inspection for perishable products and cargos for emergency aid goods are waived.

The numbers and times required for administrative procedures of exportation are relatively limited comparing with the importation. However, exportation of some products such as coffee and mineral products may require additional procedures such as acquisition of export licenses and quality controls by OCC and other governmental institutions. The table below summarizes the necessary procedures.

Table 6-10　Necessary Administrative Procedures for Exportation from DRC

Procedures	Tax and Charges	Responsible Agencies
Export and Import Number	USD125	Ministry of Commerce
Import Authorization (for specific products)	-	Ministry of Economics
Phytosanitary certificates (agro, fisheries and forestry products)	-	Ministry of Agriculture
Export　License　(for specific products)	Decided by the ministries/agencies in charge	Relevant agencies
Charges by OCC	1% of FOB value	OCC
FERI	-	OGREFEM

Source: JICA Study Team based on World Bank (2010), "Etude diagnostique sur l'integration du commerce" and interviews with logistics companies.

The administrative procedures for export and import are to be streamlined through the establishment of the single window system based on the Décret in 2015. The system will be operated and managed by a private operator, SEGUCE RDC SA[80]. Prior to the agreement of the arrangement, the Décret on the harmonization of import/export related procedures was issued in 2011 (Décret n° 011/18 du 11 avril 2011 pourtant manuel de procédures harmonisées transitoires applicable au guichet unique à l'importation et à l'exportation des marchandises). The Décret stipulates that the administrative procedures for the import and export. The agencies in charge will be reviewed and streamlined by transferring the tasks to the organization in charge of the single window system as well as the already existing single window under DGDA.

(2) Taxation for Import and Export

1) Overview of Taxation for Import and Export

Multiple taxes are charged for import. These taxes include the charges for port handling and taxes for various entities such as the local governments. The table below lists such taxes.

Table 6-11　Major Taxes and Government Charges for Import to DRC

Taxes and Charges	Rate	Agencies in Charge
Charge on the Regular Inspection for Import (Frais de cotrôle réglementaires á l'importation)	2% of CIF value	OCC
Tax on the Maritime Imported Good (Taxe sur les marchandises importées par voie maritime)	0.59% of CIF value	OGEFREM
Customs	0、5、10、20% of CIF value	DGDA
TVA	16% of CIF value	DGDA
Précompte de l'impôt sur les bénéfices et	2% of CIF value	DGDA

[80] Groupe d'Enterprises Privées des Medias l'Aveir, "Guichet Unique Intégral du Commerce Extérieurs Economiques"Jan 26, 2016

Taxes and Charges	Rate	Agencies in Charge
profits (BIC)		
Tax for Industrial Promotion	2% of the sum of CIF value and the customs value	FPI
Other local government taxes	Set by the local government	Local Governments
Additional Charges in case of Matadi and Boma		
Shore handling and other port charge	No information obtained[81]	SCPT
Shore handling and other port charge	No information obtained[82]	SCPT

Source: JICA Study Team based on World Bank (2010), "Etude diagnostique sur l'intégration du commerce" and interviews with logistics companies.

The number of taxes and charges are smaller for export. Export duties, inspection fees by OCC and other relevant institutions are charged depending on the products.

The payment of the taxes and charges for import including customs duty are made at the single window except for payment for OCC. The single window is operational in Matadi, Kinshasa, and Lubumbasi.

2) Institutions of Customs

The legal framework of customs was renewed based on the World Customs Organization (WCO)'s Revised Kyoto Convention. The new Customs Code (Loi n° 10/002 du 20 août 2010 portant Code des Douanes) was promulgated in 2010. The new code includes the following improvements: simplified structure of tax rates; clarification of customs clearance procedures; attention on intellectual property rights; procedures for tax appeal; and application of HS codes for customs classification. It also stipulates the establishment of special economic zones.

The customs duty on imports was simplified from the previous complicated system to 4 tariff bands of 0, 5, 10, and 20. At the same time, sale taxes (Impôt sur le chiffre d'affaires: ICA) specified for individual products were unified as value-added tax (TVA) with single tax rate (16%). The table below shows the duties on exports.

Table 6-12 Export Duties and Rates of DRC

Items	Duty Rates
Coffee (raw, not roasted)	1%
Mineral resources or concentrates	5% or 10%
Diamonds	1.5% or 3%
Mineral oil, bitumen	10%
Electricity	5%

[81] According to logistics companies, it cost about USD 1,000 to USD 5,000 per 40 ft container. "Étude diagnostique sur lintegration du commerce"(2010) mentions then-ONATRA (Office Nationale de Transport. It was transformed to SCPT) charged 24.6% for the port handling and the Maritime Authority (Régie des Voie Maritimes) 5.92% of CIF value. The change in the rates after the privatization of ONATRA was not obtained during the Survey.

[82] According to logistics companies, it cost about USD 1,000 to USD 5,000 per 40 ft container. "Étude diagnostique sur lintegration du commerce"(2010) mentions then-ONATRA (Office Nationale de Transport. It was transformed to SCPT) charged 24.6% for the port handling and the Maritime Authority (Régie des Voie Maritimes) 5.92% of CIF value. The change in the rates after the privatization of ONATRA was not obtained during the Survey.

Items	Duty Rates
Timber (different rates depending on the raw or processed)	Duty free or 5% or 10%
Fresh water	5%

Source: Tarif Douanier 2007

(3) Procedures of Customs Clearance

In this section, the import procedures are overviewed. The table below shows the list of documents required for customs clearance upon import in DRC and other African and Asian countries. The types of documents necessary for import do not have a large difference among countries. In terms of the pre-shipment inspection, Kenya also imposes the similar requirement of the certificate of conformity. It does not assess the valuation.

Table 6-13 Import Customs Clearance Documents in DRC and other Countries

DRC	Kenya	Vietnam	Indonesia
i) import permit (issued by a bank), ii) Commercial Invoice, iii) Bill of Lading (B/L) or Air Way Bill, iv) Packing List, v) Certificate by BIVAC, vi) FERI, vii) Certificate of Origin (if necessary) . Other document such as insurance.	i) Import declaration form, ii) Bill of Lading (B/L) or Air Way Bill, iii) Certificate of Conformity, iv) Packing list, v) Commercial Invoice, vi) Certificate of origin, vii) Certificate of the quality from relevant organizations (if applicable for such products as plants, medicine)	i) Import declaration form, ii) Commercial Invoice, iii) Purchase and sales contract, iv) Packing list, v) Certificate of origin, vi) Certificate of registration for quality inspection (import permit required prior to the importation)	i) Import declaration form, ii) Commercial Invoice, iii) Bill of Lading (B/L) or Airway Bill, iv) Import permit and other documents (if required)

Source: DRC: Based on the interviews with logistics companies, Kenya: Government of Kenya (2006)"Handbook on Importing and Exporting", materials provided by the logistics company, Vietnam, Indonesia, Thailand: JETRO (2013) ASEAN/Mekong Chiiki Saishin Butsuryu, Tsukan Jijo (Latest Situations of Logistics and Customs Clearance in ASEAN and Mekong areas)

The customs office categorizes the cargos into 4 lines as listed in the table below based on the risk level[83]. Upon the submission of the request form for the customs declaration online, the declaration is sorted automatically. According to DGDA, the ratio of those categorized as red used to be 95%, but decreased to 28%. In terms of the inspection, some may be done by scanners in Matadi, Lubumbashi, and Kasumbalesa without opening the containers[84].

DGDA categorizes imported cargos according to the international reference provided by IMF. At the time of the Survey, DGDA was preparing for use of reference data based on the market transaction in DRC.

[83] During the interview with a logistics company, there was no mention on "blue". Moreover, it was not possible to collect enough information on the post clearance audit. Therefore, it was not clarified whether the simplified procedures using the post clearance audit has been commenced. In the legal document (Decrét n° 011/18 du avril 2011), 4 risk levels including blue are stated.

[84] According to the interview with a logistics company, their feeling is that about 50% of the cargos are categorized either orange of red. The possibility of categorized as red is higher when it is mixed cargo with different types of goods.

Table 6-14 Categories for Customs Risk Management System (Import) in DRC

Classification	Description
Green	No physical inspection required.
Blue	Those for the post clearance audit.
Orange	Requires review on valuation (more than 10% of deviation from the reference value of the same goods)
Red	Physical inspection required.

Source: Based on the interviews with DGDA and logistics companies.

(4) Efforts for Simplified Customs Clearance Process

The Government of DRC has been undertaking some policies in order to simplify the customs clearance process. Apart from the customs risk management process, a few systems are expected to reduce the burden of trade procedures.

1) Establishment of Single Window for Trade-Related Procedures

The regulation for establishing the single window for trade-related administrative procedures has been issued. The operator is identified for developing and running the system in the Build-Operate-Transfer (BOT). Bureau Veritus (assigned the operation of pre-shipment inspection) forms a joint venture with another contractor to undertake the project[85].

2) Renewal of Customs Declaration System

DRC has been utilizing customs declaration and clearance system, ASYCUDA, introduced by (United Nations Conference of Trade and Development: UNCTAD). The system has already integrated 97% of payments of customs and other taxes and levies related to trade. Up to the time of the Survey, the system was already renewed from Asycuda ++ to Asycuda World in the most parts of the country except the Eastern DRC. The system of Asycuda Performance Measurement and Monitoring System (ASYPM) was also introduced in order to monitor tax collecting performance and to detect signs of malpractice.

(5) Problems and Issues

There are some different views on pre-shipment inspection. Since HS categorization and valuation is appraised by a third party international organization, it is recognized as credible and generally fair. It can also reduce the possibility of incidents where the customs office questions the customs valuation. However, it is also recognized that the reference price level of BIVAC is higher than the market rate, which may result in the request to review the valuation. There are still cases where the importers are ordered to amend the valuation or categories in HS codes. In case of such order, the importers are to hold a negotiation, but sometimes it may become a court case.

(6) Direction of Improvement

The customs clearance system has been improving by introducing and enhancing online systems in

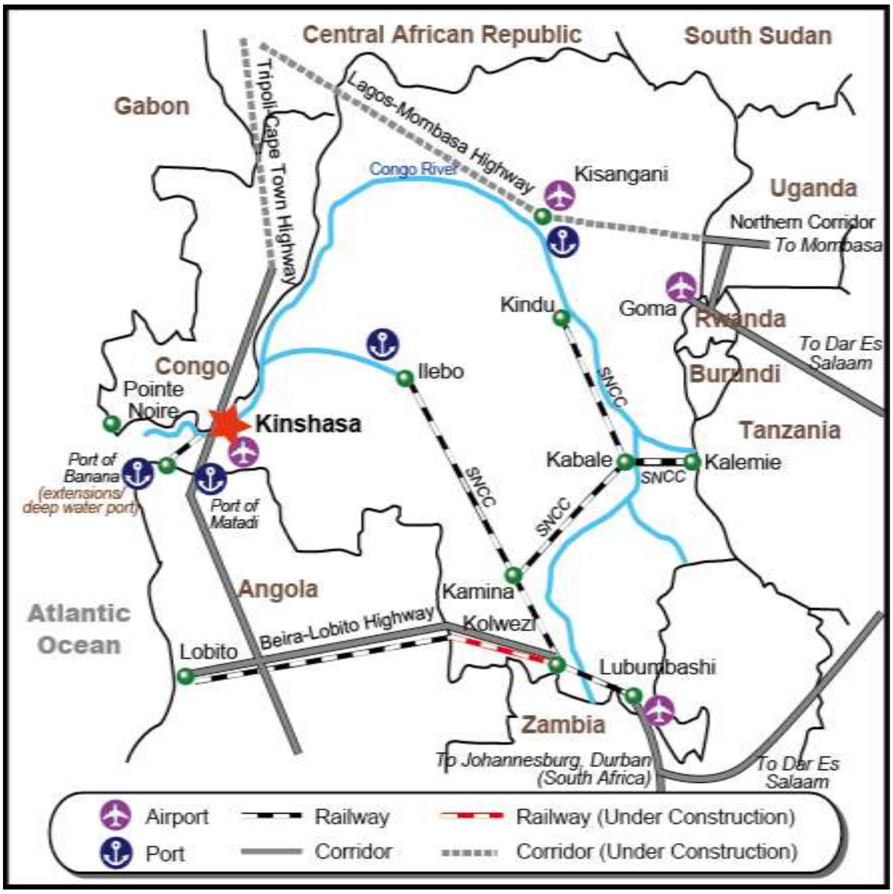
[85] Japan Association for Simplification of Trade Procedures (2015) Africa ni okeru bouekitorihikitou no denshika ni Kansuru chosa(*Study on Introduction of Electronic Data Interchange for Trade-Related Transaction in Africa*).

parallel with the efforts of trade facilitation. Through automated system, the range of procedures processed arbitrarily by the officers in charge can be reduced and also reduce the occurrence of malpractice. The monitoring system, ASYPM, was also introduced. The introduction of the new system is expected to enhance the efficiency of the customs clearance process and to reduce the incidents of corruption to some extent. However, the strong pressure of revenue collection of the Government of DRC as well as the different understandings on valuation and the capacity of the customs officers may require more time.

6.2.10 Logistics

(1) Status of International Transport and Logistics

DRC shares its border with 9 countries around its vast territory and has 42 border points. The major transport corridors and networks are depicted in the figure below.



Source: JICA Study Team

Figure 6-9 Map of Transport Networks in DRC

The road network between major cities is not fully established: it is either damaged and not fully rehabilitated or never built. Therefore, some major cities are instead connected with major cities and ports in the neighboring countries. The table below is the list of the major international logistics connections.

Table 6-15 International Logistics Connections in the Areas in DRC

Area	Ports	Major Inland Logistics Routes
Kinshasa, Western Congo, the area along Congo River	・ Cargos are transshipped at the Port of Pointe Noire and disembarked at the Port of Matadi or Boma. Specific typs of cargos are shipped directly to Matadi without transshipment at the Pointe Noire. ・ Some cargos are transported via Robito or Luanda, Angola .	・ Transported by road or railway between Matadi to Kishasa. ・ Transport to further inland destinations is either by air, via river routes, or by road to the limited extent.
Eastern region (Former North and South Kivu)	・ Mombasa (Kenya) ・ Dar es Salaam (Tanzania)	・ Transport via the Northern Corridor (Uganda and Kenya from/to Mombasa) ・ Transport via the Central Corridor (Rwanda and Tanzania from/to Dar es Salaam)
Southeastrn region (Former Katanga)	・ Dar es Salaam (Tanzania) Durban (South Africa) Wolvis Bay (Namibia)	・ Transport via Tanzania and Zambia (from/to Dar es Salaam) ・ Transport via South Africa, Zimbabwe or Botwana and Zambia (from/to Durban) ・ Transport via Namibia and Zambia (from/to Wolvis Bay)

Source: JICA Study Team based on interviews with logistics companies.

(2) Domestic Transportation

The mode of transport between Kinshasa and the capitals of selected provinces are shown below.

Table 6-16 Mode of Transport between Kinshasa and Major Cities

Cities to Kinshasa	Mode
Matadi	Road or Railway
Bandundu	Road
Lubumbashi	Air
Kisangani	River or Air
Mbandaka	River
Mbuji-Mayi	Air
Goma	Air

Source: JICA Study Team based on interviews with logistics companies.

1) Transport by Road

According to data in 2010, the total length of the national highway, rural roads and urban roads was 58,350 km, 86,615 km and 74,000 km, respectively[86]. The road density of paved roads (1 km per 1 sq. km) is far below the average of low income countries of 16 km. The density of unpaved roads is 24 km per 1,000 km, also below the average of low income countries of 68 km[87].

[86] World Bank (2010), Étude diaglonstique sur l'integration du commerce
[87] World Bank (2015), Tranport, Economic Growth, and Deforestation in the Democratic Republic of Congo: Spatial Analysis

National Route 1 is the vital route of DRC connecting Matadi, Kinshasa and Lubumbashi with a total length of 3,130 km. However, only a limited part is available for use. Rehabilitation is underway with the financial support of donors such as EU, World Bank and AfDB. Other corridors are planned to be facilitated either by the government finance or support by donors such as the World Bank and DfID; these include in the East (National Route 5 connecting North and South Kivu and the former Katanga), in the Northeast (the route connecting North Kivu and Kisangani), and in the Northwest (the route connecting Kisangani and the cities along the Congo River and Central African cities).

2) Transport via Waterways

Congo River and the branches as well as lakes provide the waterways for various locations in the country. Although some are not navigable during the dry season, the total length of the waterways is estimated to be 25,000 km.[88]. The navigable stretch of Congo River and the branches are the area between the river mouth to Matadi and Boma (150 km), Kinshasa to Kisangani (1,730 km) , areas in the former Province of Oriental (300 km) and in Katanga (500 km). River ports are located in 27 locations, but only 22 are operational[89].

3) Railway

Railway lines are only operational between Matadi and Kinshasa and some limited areas in the Eastern and South Eastern Provinces. The former is operated by Société commerciale des transports et des ports (SCTP) and the latter by Société Nationale des Chimines de fer de Concolais (SNCC) .The former line is about 30 years old since development, which is relatively new. However, both are not well maintained. Also the operational capacity and the number of locomotives are absolutely insufficient. Therefore, the schedule is not reliable and takes a long time for transport. In Katanga, there are lines between Kolwezi and Sakania (the border town with Zambia) and Kolwezi and Ilebo (Kasaï-Occidental) . There is another line connecting Kalemie (Katanga) and Kindu (Maniema) .

The logistics routes between Kinshasa and Lubumbasi was vital before by using the waterway between Kinshasa and Ilebo and the railway between Ilebo and Lubumbasi. Although limited amount of cargos are transported, the major amount have shifted to air transport.

In Angola, the railway from Lobito to the border to DRC has been developed. If the line between Dilolo, the border with Angola to Kolwezi is fully rehabilitated, the access to the Atlantic Ocean from Katanga area will be improved[90].

[88] Foster, Vivien, Daniel Alberto Benitez (2011) The Demoratic Republic of Congo's Infrastructure: Continental Perspective, World Bank Policy Research Working Paper 5602
[89] INS (2014) Annuaire Statistique
[90] Foster, Vivien, Daniel Alberto Benitez (2011)

(3) Major Infrastructure

1) River Ports

As seen in the export and import data, DRC's major traded commodities consist of the export of mineral resources and the imports of petroleum products, cement, chemicals for smelting copper, vehicles and heavy machinery for mining, and other various consumer goods including foods. The largest hub for import is Kinshasa where population and economic activities as well as the means of transport are concentrated.

The Port of Matadi and the Port of Boma

The major port connecting international shipping lines passing the Atlantic Ocean and the western Congo is the Port of Matadi, however, the bulk cargo and a part of the cargo are handled in Boma. The Port of Matadi is located 150 km from the mouth of Congo River where the river is too shallow for the large size ships. Therefore, except for some Ro-Ros, the containers are transshipped at the Pointe Noire to the feeders. The handling volume is 25 million tons per year[91]. The Port of Boma is located downstream of Matadi, about 90km from the mouth of the River[92].

Former SOE, l'Office Nationale de Transport (ONATRA) was privatized and established SCTP which is operating and managing ports. As mentioned earlier, the railway between Kinshasa and Matadi is also operated by SCTP. There is a private initiative to build a new port facility downstream of Madadi. With 2 berths, the facility is planned to have capacity to accept large ships after dredging. Through the new facility the capacity of the area will be enhanced to some extent[93].

The Port of Kinshasa

The handling volume of commercial cargo embarking from the Port of Kinshasa increased significantly from 16,000 tons in 2011 to 290,000 tons in 2013[94]. The Port of Kinshasa handles approximately three times more tonnage than the railways. The importance of the port is increasing as it is a hub in the corridor connecting the southwestern and the northwestern areas of country[95]. There are a number of informal berths apart from the ones owned by SCTP.

2) Airports

There are 54 airports and airstrips for international and domestic flights in DRC. The handling

91 World Food Program, Logistics Capacity Assessment
92 Ibid.
93 By the concession to South African company, the port facilities a re under construction. The new facility will have the terminal with the capacity of almost the same volume with existing facilities. According to International Container Terminal Services Inc.(ICTS) , the conssession participant, the new port will handle 120 thousand TEU and bulk carogos whereas the existing Matadi handles 140 thousand TEU (Source: ICTSI "Building African Ports through Public- Private partnerships", October 2014)
94 INS (2014) Annuaire Statistique
95 World Bank (2015), Tranport, Economic Growth, and Deforestation in the Democratic Republic of Congo: Spatial Analysis

volume of air cargo has been decreasing since the peak in 2007. The handling volume of the major airports in 2013 is shown in the table below. More than 90% of the international cargo both for import and export is handled by Njili International Airport in Kinshasa. The airport handles 40% of the domestic cargo, which still has the outstanding share among other airports. Apart from Kinshasa, the international airports are Lubumbasi, Goma, Gbadrite (Équateur), Kisangani and Mbuji Mayi.

Table 6-17 Air Cargo Handling Volume (2013)

(ton)

	Arrival			Departure		
	Domestic	International	Total	Domestic	International	Total
Total	47,722	18,698	66,419	91,065	7,238	98,393
Kinshasa/Njili	18,104	17,447	35,552	31,260	6,589	37,848
Mbuji Mayi	10,428	0	10,428	2,052	0	2,052
Tsikapa	2,040	0	2,040	731	0	731
Bukavu	183	0	183	37,964	0	37,964
Goma	5,017	694	5,711	12,197	279	12,477
Kisangani	1,791	523	2,315	1,813	347	2,160

Source: INS (2014) Annuaire statistique

Direct flights are available between Kinshasa and Europe (via Air France and Brussels Airlines), and some destinations in Africa (via Ethiopian Airlines, Kenya Airways, South African Airways and others). For the domestic airlines, Congo Airways, Compane Africaine d'Aviation and cargo flights are available between major cities[96].

(4) Time and Cost Required for Inland Transportation

1) Transportation Cost

The table below shows the cost of transportation based on interviews with enterprises and existing material. It was not possible to acquire information of one in the Katanga area.

Table 6-18 International Transportation Cost for Import to Kinshasa and Goma

	Sea Transport		Inland Transport		
		Cost (USD)		Distance (Km)	Cost (USD)
Western DRC (Kinshasa)	Asia (China, India)-Matadi	8000～8500	Matadi-Kinshasa	330	2000 to 3250
	Belgium - Matadi	4500			
Eastern DRC (Goma)	Asia-Dar es Salaam*1	2500	Dar es Salaam-Goma	1570	5000
East Africa	Asia-Mombasa*2	2000	Kenya (Mombasa-Nairobi)	530	1000
			Uganda (Mombasa-Kampala)	930	2500

Source: JICA Study Team based on the interview with companies in DRC. Data for Goma, Kenya and Uganda is based on Shippers Council of East Africa "East Africa Logistics Performance Survey "(2014 and 2015).
Note: Price of a 40ft container.
*1 : Doubled the price of 20ft container.
*2 : Data of 2014. The ocean transport to East Africa is the average of those from various locations in Asia.

Comparing with East African countries, the cost of sea transport is high. Moreover, the inland

96 Based on the information of the websites of airlines. At the time of the survey, employees of international organizations are not allowed to use domestic flights except the UN flights. Any DRC airline are allowed to have a direct flights to European airports.

transportation cost is also high despite the relative short distance. It should be also noted that the port charges and storage costs at dry port are added in case of Matadi.

Sufficient information on export was not collected during the Survey. According to one company, it costs USD 2,000 per 40 ft container to Belgium. On the other hand, the freight cost from Mombasa to Europe was USD 4,500 in 2015. In terms of the export, some advantage may be found if it is toward Europe due to the proximity[97].

2) Time

The table below indicates the time required for sea and inland transport to Kinshasa and Lubumbashi.

Table 6-19 Time Required for Import to Kinshasa and Lubumbasi

	Sea Transport		Inland Transport			Customs Clearanc
		Days		Distance （Km）	Days	Days
DRC (Kinshasa)	Asia (China, India)-Matadi	30 to 70	Matadi-Kinshasa （Customs Clearance at Matadi）	330	0.5 to 3	7 to 10
	Belgium - Matadi	14 to 45				
	Tranship at Pointe Noire	2 to 30				
DRC (Katanga)	–	–	South Africa－Lubumbasi (Customs Clearance at Kasumbalessa）	2830	5 to 8	3 to 4
East Africa	–	–	Kenya （Mombasa－Nairobi）	530	4	3
			Uganda （Mombasa-Kampala）	930	8	7

Source: JICA Study Team based on the interviews with companies in DRC. For Kenya and Uganda, based on Shippers Council of East Africa “East Africa Logistics Performance Survey 2014”.

The time required for the cargos to Matadi and Kinshasa including the transhipment at Pointe Noire amounts maximum 2.5months for sea transportation from Asia[98]. At Pointe Noire, it takes 2 to 3 days for the transshipment and additional waiting time before the vessels entering into the port since the port is small. Therefore, some interviewees mentioned that it takes maximum one months from the time of arrival and departure to Matadi at Pointe Noire.

The time required for inland transportation from Matadi to Kinshasa is only half a day although the customs clearance may take more than 10 days. To Lubumbasi, it takes the same time as to Uganda.

(5) Problems

The time and cost of the international transport varies largely depending on differences in the geographical distance from the major ports, situation of infrastructure, involvement of public infrastructure operators, and the problems of the administrative procedures. Where multiple international trade routes exist, the situation and the problems are different as seen in the analysis. The problems observed for western and southeastern Congo are described below.

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[97] The freight cost between Mombasa and Europe is based on the data of Shippers Council of East Africa“East Africa Logistics Performance Survey 2015”.
[98] Accoridng to the interviews with logistics companies, it takes 45 to 60 days from Japan to Pointe Noire.

1) Western DRC

International logistics around the Ports of Matadi and Boma needs improvement in terms of both time and cost. In the corridor between Kinshasa and Matadi, the cost is critical especially for sea transport for import to Matadi or Boma. In addition, the inland transportation cost to Kinshasa is expensive despite relatively short distance. This is due partially to insufficient development of transportation measures. However, the major factor contributing to the high cost is actually the administrative costs such as the port charge and other taxes[99]. In fact, the taxes including the customs duties are higher than the freight cost.

Factors affecting the length of time for international transportation are the following: i) Waiting time at Pointe Noire and the transshipment; ii) Waiting time to enter the Port of Matadi; and iii) waiting time for customs clearance at the Port of Matadi. The main causes are problems of infrastructure, the efficiency of port handling operations, and efficiency of customs clearance. The efficiency of customs clearance was explained in the previous section.

Problems of the infrastructure are found in the port facilities and equipment of Matadi and Boma. The capacity is too small and the equipment and facilities are old and insufficient in number. The Port of Matadi, for example, has 4 berths. However, due to structural problem, only two ships can access to the quays at once. Therefore, other ships wait at Pointe Noire, which causes congestions at Pointe Noire 100. Moreover, the topography of the areas around the port of Matadi makes the expansion of the logistics facilities to be located nearby difficult. Therefore, the facilities around the port do not have adequate capacity. Hence, some importers prefer the customs clearance in Kinshasa even though they have to pay extra transit cost at Matadi in order to avoid congestion at the Port of Matadi. Despite the privatization, SCTP who operates the railway between Matadi and Kinshasa does not have enough capacity for efficient operation. In order to reduce the congestion at the port and to reduce the inland freight cost, the capacity of SCTP must be built up.

2) Southeastern (Areas of the former Katanga Province)

Areas in the former Katanga Province and even areas of North and South Kivus have access to multiple ports along Indian Ocean such as Durban, Dar es Salaam, and Mombasa. Therefore, the freight between Asian and Middle Eastern countries may have some advantage in terms of the cost and time. However, there is still long inland transportation which results in large cost and time burden. Currently, DRC does not fully participate in the free trade areas or customs unions under the regional economic communities. However, with deeper integration, simplification of the procedures

[99] According to a shipping line, the time and risk for inland transportation causes higher price for container deposit. For example, one 40ft container costs USD for 2,000 as deposit. It is refundable after returning the container within the designated period.
[100] Based on the interviews with logistics companies.

with lowered tariff and non-tariff barriers may be expected. It may contribute to reduce the cost and time of cross-border transactions[101].

(6) Direction for Improvement

1) Rehabilitating and Building Infrastructure

Basic transportation infrastructure in DRC must be rehabilitated and developed in order to improve the situation of logistics. Regarding the resource limitation and the potentials endowed in the regions, a few areas may be selected to spearhead the development. Such areas may be in the corridor connecting the shore of the Atlantic Ocean, Matadi and Boma via Kinshasa to further inland areas such as Bandundu and the eastern areas along the corridor of the main routes coming from Southern African and East African countries via border towns to Lubumbasi and Kivu, and the areas along Congo River. After the development of main routes and hubs, each area may be gradually further developed by connecting the hubs and secondary cities with further transportation infrastructure development. On-going and planned major projects are listed below.

Table 6-20 Planned Domestic Transport Infrastructure Projects and Progress

Types	Items	Progress
Railway	Rehabilitation of Matadi-Kinshasa line	Feasibility Study done
	Rehabilitation of Kolwezi-Dilolo line	Developed concept notes
Port	Modernization of the Port of Matadi	Pre-feasibility study done
	Deep sea port construction in Banana	Pre-feasibility study done
Airport	Expansion of the Njili Airport in Kinshasa	Pre-feasibility study done

Source: JICA Study Team based on the information provided by the Ministry of Transport and Communication.

Railway development also focuses on the main corridors. In addition to Kinshasa-Matadi line with high volume movement of goods, the connectivity in Katanga with Angola and the Atlantic Ocean is sought through facilitating the connection of the line between the borders of Angola and Kolwezi.

In order to foster industries taking advantage of the large consumer market in Kinshasa, it is necessary to form a hub in Kinshasa and to reinforce accessibility from the major shipping routes in the Atlantic Ocean.

The private sector has been moving somewhat into business opportunities in the transport and logistics industries. As mentioned above, foreign private capital is constructing a new port facility besides the existing Port of Matadi. A private company is also preparing to set up an inland container depot (ICD) near Matadi[102].

There are some projects without identified financial sources. For example, the plan of developing the Port of Banana has been on the list, but so far, there is no clear solution for coping with the necessity

[101] Tanzania started applying the Single Customs Territory Clearance procedures for those cargos bound to DRC from July 2015. According to the interviews with the business community in Katanga, so far, the impact seems to be rather not faviorable with some confusion at the Port of Dar es Salaam.
[102] Based on the interview with logistics companies.

of periodic dredging which is expected to be a burden for port operation[103]. Therefore, improvement of the function and efficiency of the Port of Matadi is expected to be more feasible for improving the situation.

2) Public and Private Partnership for Improvement of Public Transportation Operators

Following privatization, the operational and management capacity of transportation service providers must be improved. Contracting the operation to other private sector operators may also be a possible measure to increase the efficiency. World Bank has provided financial and technical assistance to conduct Multimodal Transport Project since 2013 which encompassed management reform of privatized former SOEs and public authorities such as SNCC, Airline Authority (Régie des Voies Aériennes: RVA), SCTP as well as provision of necessary equipment and facilities.

On the other hand, there is a project of a private investor to develop the port facility near the currently one in Matadi and to operate it. Based on international lessons and good practices, effective private-public partnership in addition to government-led infrastructure development should be sought.

6.2.11 Power

(1) Current Situation on Power Supply in DRC

1) Electrification and Power Supply Capacity

In DRC, the area covered by the grid is limited to Kinshasa and a part of Congo-Central and a part of Katanga (Lubumbasi, Likasi and Kolwezi)[104]. The ratio of households with access to electricity was only 9% in 2012[105]. The Government of DRC sets the target to increase the access of electricity to be 100% of households. It also sets the target of the ratio of renewable energy sources in electricity to reach 52% in 2030 from 32% in 2012. According to the interview with private companies, the problem of the quality of supply was often pointed out (see Chapter 4). The situation in Katanga is especially problematic as the mining companies operating in daytime consume a large amount of electricity. Power issues are raised as the major hindrance of private sector development which requires improvement of generation as well as the capacity of operation and management of transmission and distribution[106].

Generation capacity increased largely from 5,987 GWh in 2003 to 8,728 GWh in 2014. More than 98% of the generation capacity is covered by hydropower with 2,445 MW, whereas only 28 MW is generated by thermal power. There are 35 thermal power plants located in urban areas. In order to

103 Based on the interview with logistics companies.
104 Based on the interview with SNEL.
105 Ministère de l'Energie et Ressources Hydrauliques, Eclairer la RDC: Moderniser les Services Energetiques
106 Based on the interview with the chapter of FEC in Katanga and the Chamber of Mines.

meet the demand, there are 130 on-going or planned power sector projects. The table below shows major projects for rehabilitation and construction of power plants.

Table 6-21 Major Projects for Rehabilitation and Construction of Power Plants

Project Title	Province	Financier
On-going		
Rehabilitation of Inga 2	Bas-Congo	World Bank
Rehabilitation of Inga 1	Bas-Congo	World Bank
Construction of Zongo 2	Bas-Congo	Chinese Exim Bank, the Government of DRC
Construction of Kakobola Power Plant (10.5MW)	Bandundu	Indian Exim Bank, the Government of DRC
Rehabilitation of Nseke Hydropower Plant	Katanga	SNEL
Construction of Grand Katende Hydropower Plant (64MW)	Kasaï Occidental	Indian Exim Bank, the Government of DRC
Construction of Movo Hydropower Plant(4.5MW)	Kasaï Oriental	Chinese Exim Bank
Construction of Rudahira Hydropower Plant (12.6MW)	North Kivu	EU
Construction of Ambarau Hydropower Plant (22MW)	Oriental	Kibali Gold Mines
Planned		
Rehabilitation of Inga 2	Bas-Congo	SNEL
Phase 1 of Mbimbi Mayi-Munene (hydropower generation, 100MW)	Kasaï Occidental	Brazil
Rehabilitation of Bebdera Hydropower Plant	Katanga	STS (private operator)
Rehabilitation of Pianamwanga Hydropower Plant	Katanga	Katanga Energy
Rehabilitation of Mwandigusha and Koni hydropower plant.	Katanga	Mining company
Rehabilitation of Lutshurukuru Power Plant	Maniema	The Government of DRC
Construction of Lohulo Power Plant (3MW)	North Kivu	STS
Construction of Talihya Nord Power Plant (4.8MW)	North Kivu	STS
Construction of Ruzizi3 Power Plant (145MW)	South Kivu	KfW and other private operators
Construction of Azambi Power Plant (11MW)	South Kivu	Kibali Gold Mines

Source: Ministère de l'Energie et Ressources Hydrauliques

Some areas along the border purchase electricity from the neighboring countries: in Katanga, electricity is supplied from Zambia.

2) Cost and the Quality of Electricity

Access to the electricity in DRC is evaluated by Doing Business 2016 as shown in the table below[107].

[107] The actual score is a composite index calculated based on the number of procedures, and the time required for process, cost of the processing documents and purchasing equipment as well as a newly introduced index in 2016.

Table 6-22 Cost and Time of Getting Electricity in DRC, African and Asian Countries

	DRC	Kenya	Cambodia	Vietnam	SSA
Number of procedures	6	4	4	6	5.4
Time (day)	56	110	179	59	130
Cost (% to per capita GDP)	15,247	732	2,336	1,323	4,076
Reliability of supply and transparency of tariffs index (0-8)	1	0	2	3	

Source: World Bank, Doing Business 2016
Note: The cost does not mean tariff, but the sum of costs borne by arranging supply contracts and other documents, purchasing equipment and the fee for installation.

DRC is ranked 127th out of 186 countries for the ease of getting electricity. The level is similar to the Sub-Saharan average. According to the interview with SNEL, a pilot project of web-based application for electricity subscription was started. By the new system, the number of procedures are to be reduced to 4 from 6 as well as the number of the days to 18 days.

As seen in the Chapter 4, the power tariff is rather cheap at USD 0.0057 compared with other African countries. However, the quality of the supply is low with frequent blackouts which can last for a long time. Almost all the interviewed enterprises are equipped with generators as backup source of power.

(2) Current Situation of Private Sector's Participation in the Power Sector

A state-owned enterprise (SOE), Société Nationale d'Électricité (SNEL) has exclusively undertaken generation, transmission and distribution of electricity. SNEL was privatized together with other SOEs in 2009[108]. However, the participation of the private capital has not been realized. In June 2014, a law was promulgated to liberalize the power sector. The law on the electricity sector (Loi n° 14/011 du 17 juin 2014 relative au secteur de l'electricité) provides the legal framework for the participation of the private sector into the power sector through concession agreements on generation, transmission and distribution. However, detailed regulations were yet to be in place at the time of the Survey. The Government of DRC is planning to set up a new institution to provide business license and to approve the tariff of electricity[109].

On the other hand, mining companies have provided the capital to SNEL for developing and maintaining power supply infrastructure in order to secure the necessary large volume of supply. There are also a few cases where private companies supply power. Electricité du Congo in Tsikapa,

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The new index is calculated based on the evaluation on the transparency of setting tariff, tariff per kWh.
[108] The privatization was conducted based on the following laws; Loi n° 08/007 du 07 juillet 2008 portant dispositions générals rélatives à la transformation des enterprises publiques (the law on the transformation of public enterprises), Décret n° 9/11 du 24 avril 2009 pourtant mesures des transitoires relatives à la transformation des enterprises publiques (the decree on transitory measures for the transformation of public enterprises), and Décret n° 9/12 du 24 avril 2009 etablissant la liste des entreprises publiques transformées en sociétés commercials, etablissements publics et services publics (the list of the transformed companies).
[109] Based on the interview with the Ministry of Energy and Water Resource (Ministère de l'Energie et Ressources Hydrauliques).

Kasaï-Occidental and Hydro Force by MIBA (mining of diamond) in Mbuji Mayi, Kasaï-Oriental started to operate as independent power providers. There are plans for new construction of the power plants by private capital as seen in para 1) of item (1).

Chapter 7 Analysis on Investment Promotion Agency and its Function in DRC

7.1 Organization and Function of ANAPI

7.1.1 Legal basis of ANAPI and its authority

The organization in charge of investment promotion in DRC is ANAPI (Agence Nationale pour la Promotion des Investissements). The Investment Code (Loi n° 004/2002 du 21 fevrier 2002 portant code des investissements) established ANAPI under the Ministry of Planning in 2002. The purpose of ANAPI is to promote both domestic and foreign investments and to approve investment projects under the Investment Code[110].

The Decree (Décret n° 09/33 du 08 août 2009 portant statuts, organisation et fonctionnement de l'agence pour la promotion des investissements) defines ANAPI's authority, duties, and responsibilities. According to the Decree, there are four duties of ANAPI: building positive image of DRC, advertising opportunities and advantages of investing in DRC, improving business environment through making advocacy on investment climate, and supporting investors' activities to expand their business in the country. In addition, ANAPI, FEC, the Federation of Congolese Enterprises, provides information on laws and regulations whenever they are introduced and/or amended, and gives consultation to the member companies when they face any issues in DRC.

7.1.2 ANAPI's Organizational Structure, Budget, and Staff Allocation

(1) Organizational Structure

ANAPI consists of 4 organs: the Board of Directors, the Board of Approval, DG Secretariat, and Audit. The members of the board of directors at ANAPI, which is the highest decision making organs, and their duties and responsibilities are shown in the table below.

Table 7-1 Members and Duties/Responsibilities of the Board of Directors

Members	Main duties and responsibilities
DG of ANAPI 1 person Representative of Ministry of Planning 1 person Ministry of Finance 1 person Private sector 1 person Civil society 1 person Total 5 people *All representatives have to be approved by the Cabinet and appointed by the President	・ Approve ANAPI's strategy, annual plan, and budget after confirming those are consistent with governmental policies. ・ Check if the implementation is done according to the strategy and annual plan and if the goals set in those documents are achieved. ・ Make a decision on the prioritized activities based on the proposition from the DG Secretariat. ・ Monitor the outcome of the activities implemented by the DG Secretariat.

Source: JICA Study Team based on Décret n° 09/33 du 08 août 2009 and Décret n° 12/044 du 01 novembre 2012.

The Approval Committee is held at least twice a month and the Directorate of Investment Project Approval is in charge of organizing and arranging the committees. The members of the committee

[110] Loi n° 004/2002 du 21 fevrier 2002 portant code des investissements, Titre II, Section I, Article 4. ANAPI will be asked to provide its opinions when it comes to the investment projects in the sector of mining, finance, and insurance if necessary.

and their duties and responsibilities are shown below.

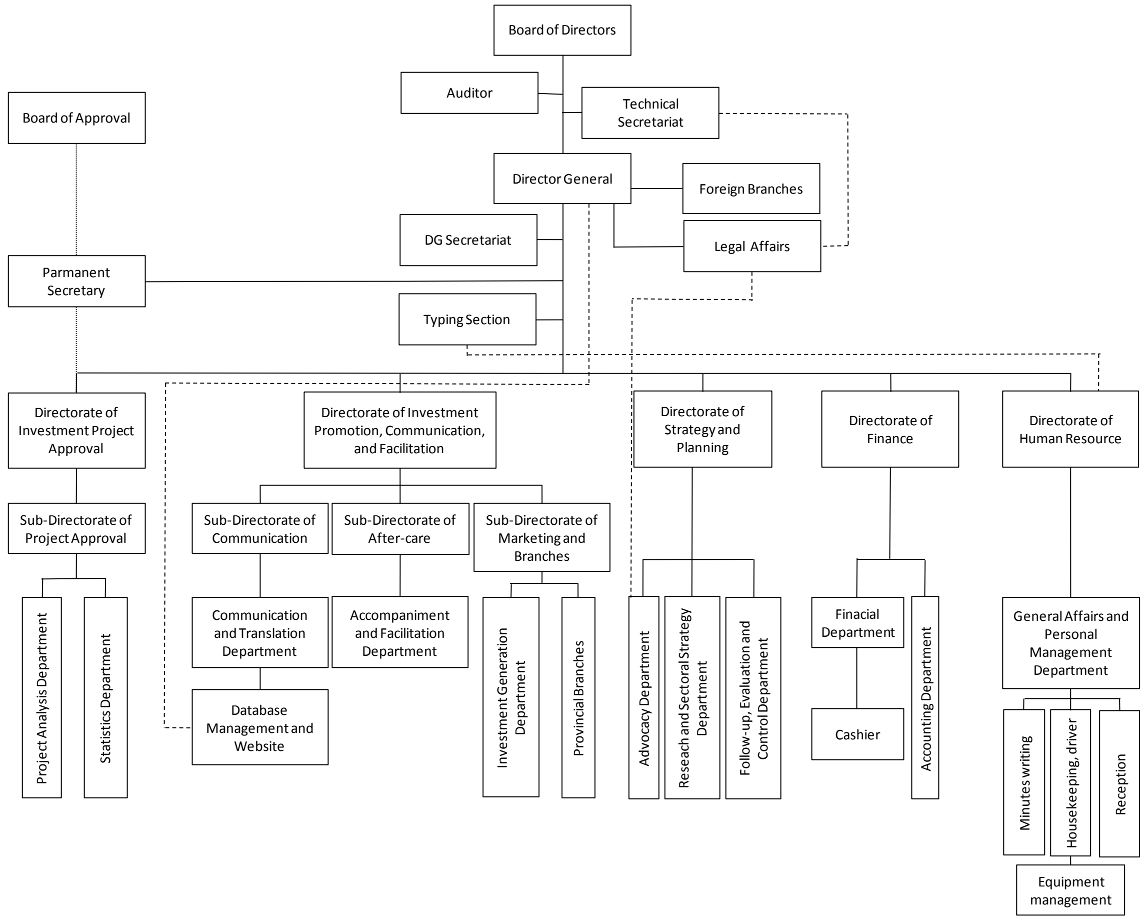
Table 7-2 Members and Duties/Responsibilities of the Approval Committee

Members		Main duties and responsibilities
Permanent members		・ Deliberate and approve the investment projects under the Investment Code.
Representative of:		・ Provide technical evaluation on the applied investment projects under the other special codes/laws[111].
The Presidential Office	1 person	
The Cabinet	1 person	
Ministry of Planning	1 person	
Ministry of Finance	1 person	
Ministry of Environment	1 person	
Ministry of Economy	1 person	
Ministry of Industry and SMEs	1 person	
Ministry of Employment	1 person	
DGDA	1 person	
DGI	1 person	
DGRAD	1 person	
DG of ANAPI or Representative	1 person	
Total	12 people	
Non-permanent members		
Representative of ministries related to investment projects, who are recommended by the Investment Approval Directorate and invited by the chairman of the Approval Committee	Several people	

Source: JICA Study Team based on Décret n° 09/33 du 08 août 2009 and Décret n° 12/044 du 01 novembre 2012.

Audit and DG Secretariat are under the board of directors and there are 5 directorates under the DG, of which are 3 operational directorates (Strategy and Planning, Investment Approval, Investment Promotion and Facilitation) and 2 are supporting directorates (Finance and Human Resource). The detailed information as of December 2015 is provided in the organizational structure below.

[111] Investment projects in the sector of mining, military, commerce, finance, and insurance.



Source: JICA Study Team based on the documents from ANAPI
Remarks: Solid lines shows direct command, dotted lines shows contacts made when needed.

Figure 7-1 ANAPI's Organizational Structure (As of December 2015)

The table below shows main duties and responsibilities of each directorate. Since the government decided to close down CPCAI, which was established under the Ministry of Planning to make policy recommendations on business/investment climate, in March 2016, ANAPI will take over the functions that CPACAI had.

Table 7-3 Main Duties and Responsibilities of ANAPI's DG Secretariat

Directorate/Sub-Directorate/Department	Main Duties and Responsibilities
Directorate of Strategy and Planning	
1. Advocacy Department (Dep.)	・ Make policy recommendations
2. Research and Sectoral Strategy Dep.	・ Conduct a study on investment potential in each sector
3. Follow-up, Evaluation, and Control Dep.	・ Monitor approved investment projects
Directorate of Investment Project Approval	
1. Sub-Directorate of Project Approval	・ Identify potential investors and support them ・ Manage statistical data ・ Arrange Approval Committees and issue investment certificates after its approval
Directorate of Investment Promotion, Communication, and Facilitation	
1. Sub-Directorate of Communication	・ Generate investments
2. Sub-Directorate of After-care	・ Promote investments and support investors

Directorate/Sub-Directorate/Department	Main Duties and Responsibilities
3. Sub-Directorate of Marketing and Branches	・ Marketing the country and support branches in rural areas[112]
Directorate of Finance	
1. Fiscal Department	・ Manage finance
2. Accounting Department	・ Manage accounting
Directorate of Human Resource	
1. General Affairs and Personal Management Department	・ Manage human resources ・ Process procurements ・ Provide internal trainings

Source: JICA Study Team based on the documents from ANAPI
Remarks: ANAPI's organizational structure goes down in order of "Directorate", "Sub-Directorate", and "Department". However, the directorates of Strategy and Planning, Finance, and Human Resources only have "Department" directly under "Directorate".

(2) Budget and Staff Allocation

ANAPI has 33 million USD budget in 2015. 95% of the budget is from the government and the rest of it is from donor organizations (AfDB[113]). However, the government does not provide the budget schedule and ANAPI is facing a difficulty to implement activities planned in the annual plan[114]. Approximately 26% of the budget is for indirect cost and the rest of the budget goes to direct cost (operational cost).

Table 7-4 Flow of making budget

Period	In charge	Activity
Until November	Each Directorate	Make a budget for the next year and submit it to Directorate of Finance
Within November	Directorate of Finance	Compile the budgets that each directorate submits, adjust the overall budget by discussing with directorates, finalize ANAPI's budget for the next year, and submit it to DG.
	DG	Evaluate the budget, approve it, and submit it to the Board of Directors.
December	Board of Directors	Approve the budget and submit it to the Ministry of Planning within 3 days after the approval (normally, there is no adjustment at this stage).
Three days after the approval of the Board of Directors	Ministry of Planning	Compile the budgets from all the governmental organizations and adjust if necessary.

Source: JICA Study Team based on the interview to ANAPI.

Currently, there are 58 personnel at ANAPI; compared with the Ethiopia Investment Committee which conducts very similar duties and responsibilities[115], this is less than one third the personnel.

[112] ANAPI plans to have at least one branch in each province, but it only has one branch in Lubumbashi in ex-Katanga province as of the end of 2015.
[113] ANAPI is planning to increase the number of donor agencies to work with them.
[114] For example, ANAPI can't conduct a study on the prioritized sectors, bear the transportation and accommodation cost for a trip to rural areas, nor purchase a software for the improvement of the statistical data management.
[115] The Ethiopia Investment Committee, which is an investment promotion agency in Ethiopia, only have the half of its original capacity but still there are 188 personals.

Table 7-5 Staff Allocation at ANAPI (as of December 2015)

Directorate/ Sub-Directorate	Number of staff	Directorate/ Sub-Directorate	Number of staff
Management		Operation	
DG Secretariat	3	Strategy and Planning	8
Typing Section	5	Director	1
Legal Affairs	2	Advocacy Dep.	1
Administration		Research and Sectoral Strategy Dep.	3
Finance	5	Follow-up, Evaluation and Control Dep.	3
Director	1	Investment Project Approval	7
Finance Dep.	2	Director	1
Accounting Dep.	2	Sub-Directorate of Project Approval	6
Human Resource	14	Investment Promotion, Communication, and Facilitation	14
Director	1	Director	1
General Affairs and Personal Management Dep.	13	Sub-Directorate of Communication	5
		Sub-Directorate of After-care	3
		Sub-Directorate of Marketing and branches	7
Total			58

Source: JICA Study Team based on the documents from ANAPI.

7.2 Overview of ANAPI's investment-promotion activities

ANAPI's activities and related issues are analyzed in two main categories: information services needed by foreign investors prior to investment decision-making (i.e., information collection and organization, publicity activities) and liaison services after the investment decision (i.e., support for market entry and starting up operation, and follow-up). General outline of ANAPI's activities and sections in charge are shown below.

Table 7-6 Outline of ANAPI's activities and sections in charge

	Activities	Implementation by ANAPI	ANAPI section in charge
Information service	Collecting and organizing information	Collecting legal and statistical information, and information about local partners	Sub-directrate of communication
	Public relations	Developing website, preparing brochures, holding seminars	Sub-directrate of communication
Liaison services	Support for market entry	Supporting tours of candidate sites, introducing local partners, setting up meetings with government agencies, company visits	Sub-Directorate of After-care

	Activities	Implementation by ANAPI	ANAPI section in charge
	Support for starting up operation	Providing support with procedures to obtain permits, providing information on preferential tax treatment and procedures	Sub-Directorate of Project Approval
	Follow-up	Monitoring of investments, accepting requests from investors	Sub-Directorate of After-care and Follow-up, Evaluation and Control Department

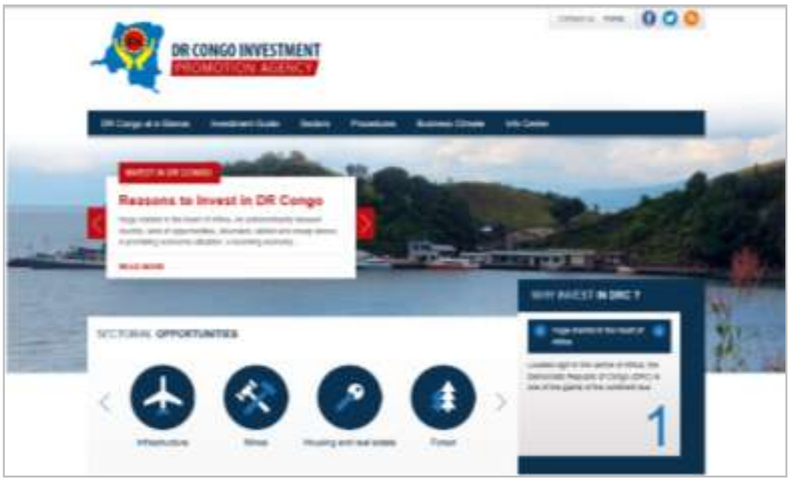
Source: Prepared by JICA survey mission based on results of field interviews

7.2.1 Actual circumstances of ANAPI's information services and challenges

(1) Operation

As basic information-provision activities to attract investment, ANAPI uses its French- and English-language website (http://www.investindrc.cd/) and brochures as major media. It utilizes the website in particular as an effective means of communicating information and promoting investment.

For example, the front page briefly summarizes sectors with investment potential, the attractiveness of the DRC as an investment destination, the news about the country, and information on investment-related events.



Front page of ANAPI website in English

Within the website, there is up-to-date information useful to investors, including services that ANAPI provides as well as general information on the DRC economy and society, guides for investment, practical incentives, procedures necessary to start doing business in the country, legal information on taxes and investment, business environment, a company directory, and a wide range of other information. It has FAQ and contact points with email addresses and telephone numbers for consultation as well, providing the minimum level of data needed to enable potential investors to contact related parties in ANAPI directly. ANAPI records the results of internet traffic into its website so that it can conduct functional improvement of pages.

It also holds events for investors at irregular intervals, as opportunities for providing information in person. In the past, these have included co-organizing a business-matching event with FEC and holding workshops for investors. Recently it held an event intended to promote investment in the 15 countries around the Great Lakes region (February 24th-26th, 2015). In the future, ANAPI plans to assign specialized staff to carry out energetic activities to attract investment from targeted countries (e.g., Japan, China, India, Europe, and Brazil). However, due to insufficient budgets, ANAPI is seeking finance from outside including donor agencies.

(2) Challenges and direction for solving problems

In these ways, ANAPI's upper officials understand the importance of obtaining the information and data that investors need based on clear policies and communicating such information properly and in a timely manner. It is clear that ANAPI is organized appropriately for providing investment information services. Meanwhile, there is room for improving the methods of communication and the content to be delivered. First of all, it is necessary to foster a positive image of the DRC through proactive communication. In particular, the following matters needs to be considered.

1) Enhancement of information contents

While information is at present provided through the website to some degree, it is important to enhance the content of information provided, update the information more frequently, and stimulate the interest of potential investors. Due to the limited sources available on business environment of the DRC, it is imperative for ANAPI to communicate beneficial information as the investment promotional agency in order to improve, even if only to a limited extent, the current situation where numerous issues have been pointed out. The following are specific data to be disseminated.

- Although the ANAPI website features a report titled "Reforms carried out by government" as a result of CPCAI advocacy activities, useful information such as this should be updated to reflect the status of improvements in some way at least once a year, instead of being treated as a transient event. Major improvements should be broadcasted actively by way of press releases or other means and favorable messages for the DRC be communicated through actual experiences of companies as independent parties.
- There is a need to supplement information useful for investors' decision-making. For example, economic and trade statistics, legal and regulatory information of accounting and taxation, logistics information (by route, by means of transportation, by package type, by facility), and practical matters on the costs of doing businesses are not apparent. It would be useful to produce model cases by type of market entry, region and industry considering total business cost estimates and logistics lead times, or widely publicize future logistics networks.
- Furthermore, there is possibility for utilizing practical knowledge of the companies in the DRC market as successful case studies, which are not currently made available. Not a few companies described the DRC's massive potential attractively, although many firms have concerns about the business environment.

- ANAPI could release general trends of foreign investment into the DRC as an inside story like the state of their progress in that they take care of investor's day-to-day operation. In addition, the result of events including remarks from business leaders, minutes and agreements among parties could prove useful evidence to potential investors. Such details would not require massive human or monetary resources and could be undertaken immediately. It would be desirable to eliminate the negative image of the business environment held by prospective investors by means of steady and repeated publication of successful experiences.

2) Necessity of updating and effective use of IT tools

It is noteworthy that ANAPI takes advantage of the latest tools such as Facebook, Twitter, and RSS which make it possible to communicate easily with vast numbers of users, together with traditional publicity tools such as newsletters and press releases. However, their applications do not appear to be very proactive. For example, there is no record of past press releases in its website, and no information was received yet even after signing up for the newsletter.

7.2.2 Actual circumstances of ANAPI's liaison services and challenges

(1) Operation

ANAPI has specialized staff assigned to supporting preparations for investors' entry to the market, and they respond to individual requests for consultation by investors, as facilitation liaisons. They are assigned for various investment sectors such as agriculture, manufacturing, mining, forestry, tourism, new technologies, construction, banking and insurance, infrastructure, transportation services, electric power and energy, and social services (e.g., health and education). Services provided are as follows.

- For investors who consider entry to the DRC, ANAPI give information useful in investment decision-making, support visa issuance for feasibility studies by investors, set up meetings with related government agencies, companies, and businesspeople, arrange local business travel, and seek out local partners.
- For investors who have decided to enter the market, ANAPI focuses on technical consulting on incorporation and investment startup procedures, facilitation services for obtaining and renewing various visas after approval, and support for the smooth start of business operation by investors through obtaining approval for preferential tax treatment under the Investment Code.
- For companies that are already incorporated, ANAPI not only propose opportunities for business expansion while maintaining continual communication with such companies, but also carry out advocacy activities to the government side about improving the investment environment and informing companies of various types of announcement issued by the government.

(2) Evaluation of ANAPI's liaison service

According to the interviews, there were no particular dissatisfactions with ANAPI's liaison services. Some commented that the division of responsibilities among individual sections used to be hard to distinguish soon after the formation; it has been recently functioning as an integrated organization so that the situation appears to be gradually improving.

(3) Challenges and direction for solving problems

While general liaison services for investors are available with free of charge, when investors seriously consider embarking business in the DRC, most of them spend large sums for fees for experienced advice from private-sector consultants specializing in market entry as well as law offices. It would be impractical for ANAPI as a government agency to continually provide professional business services related to operational matters. It is important that ANAPI continue to devote itself in the liaison role behind the scenes. For example, in developing business in the domestic market, it is vital to build relations with trustworthy local partners. To this end, ANAPI are able to contribute to value-added services that private consultants cannot conduct: providing opportunities for business networking and arranging meetings with companies that have long business achievement in the DRC in order to discuss how to strive in the local market and method of risk hedging.

In addition, ANAPI also provides consultation services on business development and proposals for further business expansion while monitoring the progress of investment plans by companies that have entered the market. There is a need to proactively make proposals to the government reflecting the views of improving the investment environment heard in such communication. In particular, the area of taxation, in which investors have made a lot of requests for improvements, is an area where there is a need for negotiation with another government agency when there are tricky issues and responses are needed at a higher level. Since ANAPI will absorb the staff of CPCAI, an advocacy institution, it is in a position to demonstrate organizational strengths in terms of human resources in this area.

Chapter 8 Conclusions

8.1 Comprehensive Evaluation for Current Investment Promotion

(1) Political and Economic Background

In the past, DRC experienced devastation from civil war for a long period of time; however, after the democratic election in 2006, formulation of a constitution, re-election of President Kabira in 2011, political and economic stability has been gradually taking root in the country. It has been maintaining more than 7% annual economic growth since 2012.

(2) Current State of Investment Potential

DRC has investment opportunities that are observed by availability of rich resources and productive material such as abandon mineral resource, vast territory, diversified natural environment and natural resource, land for agricultural use, land features for hydropower generation and Congo River with fishery resources, and lakes in Great Lakes Region. In addition, the country has a huge domestic market with its population of 83 million, high population growth rate of 3% and expansion of middle class. Moreover, generation of abundant labor can be expected.

On the other hand, it should be pointed out that except mining sector, building supply chain and developing operational bases in many economic activities are needed for taking advantage of the above mentioned investment potential since most production infrastructure and supply chain has been destroyed and important infrastructure related to telecommunication, logistics and transportation has not been developed yet. Furthermore, it is also necessary to collect information and accumulate experience through business operation in the country, which requires relatively long time span to get investors' business on track.

(3) Evaluation of Investment Climate

DRC's investment climate has various issues which have become serious bottlenecks in terms of risk and cost for investment. Firstly, issues related to political risk can be pointed out. Eastern region still has political instability and security problem which requires operation of United Nations Organization Stabilization Mission in the DR Congo (MONUSCO). In addition, presidential election is scheduled in 2016 and possibility of political confusion exists.

Secondly, taxation is a critical issue for business. The issue should be addressed in terms of high cost burden for business as a result of internationally high tax rate, complicated tax payment system, and variety of administrative tax and levies. In addition, tax issue should be also addressed in terms of company compliance as it faces serious harassment in tax collection process. The above mentioned issues are pointed out as significant problems for investment promotion.

Thirdly, several issues directly related to the increase of investment cost can be pointed out. First of all, the logistic issue is critical. Since DRC does not have deep seaport, most goods are distributed by going through the seaports of neighboring countries, which increases cost due to inland transportation. In addition, as the relevant infrastructure of transportation and energy that connect major cities has not been developed, it is difficult to maintain efficient business operation as cross-regional hub due to low connectivity between nodes. Moreover, investors have to daily bear time and cost burdens being imposed as various kinds of tax payments such as customs duty for international logistics, variety of taxation and fees for public services. Furthermore, issues related to power can be pointed out. Among others, the issues to be addressed include increase of electricity cost and decrease of operational rate as a result of low electrification rate and being forced to depend on in-house power generation due to low quality of power supply service. As far as labor cost is concerned, DRC does not have cost competitiveness since its labor cost is higher than Asian countries with similar income level and on almost the same level with other African countries although its level of income per capita is low. In addition, labor related tax burden is high as there is taxation for employment such as expatriate employment tax.

(4) Evaluation of Legal System Concerning Investment

1) Content of Investment Law and Evaluation

As far as legal system related to investment is concerned, it is generally responding to basic requirements of equitability and investor protection. However, promotion for industrial development based on long-term perspective has only just begun and concrete policy measures for industry development and trade promotion are still not clear. Therefore, the above legal system is not linked with effective policy implementation for ensuring coherence and integrity with investment policy.

2) Track Record of Institutional Reform for Improvement of Business Environment

DRC government has been addressing improvement of investment climate through adaptation of international uniform legal system in the business law area including investment and activities of CPCAI. In the former effort, it aims to establish infrastructure of rule of law by developing legal system in commercial code and nurturing legal professionals. In the latter effort, DRC government has implemented various policy measures targeting several government agencies to improve World Bank's indicators of Doing Business under the leadership of prime minister and Ministry of Planning. These policy measures have positive impacts on some items such as decrease in time and cost for starting business and ease of obtaining construction permits together with adoption of OHADA laws. However, further efforts should be made for improving respective sector to cause significant risk and cost for business activities as mentioned earlier.

DRC government has promoted privatization of State Owned Enterprises (SOEs) as part of Public Service Sector Reform and adopted policy to encourage private sector participation to the sector at the same time. In addition, DRC government also tends to expect financial arrangement by Public Private Partnership (PPP method) for improving infrastructure investment and public services.

However, in DRC, equity participation by private sector has not moved forward in key public sectors such as power, logistics and water supply since financial conditions of privatized former SOEs are bad. The government should contrive ways to reduce investment risk in order to introduce PPP method in public service sector which has high investment risk.

(5) Evaluation of Investment Promotion Agency

ANAPI, responsible government agency for investment promotion, provides information for attract investment, provides liaison services for investment consultation, provides investment approval and formulates policy recommendations. However, in practice, it is rather difficult for ANAPI to provide all the detailed information related to complicated implementation situation of investment related systems. In this regard, the government should consider utilizing private sectors, and enhancement of networking for effective investors support. In addition, due to insufficient assurance of transparency in implementation of investment related system through consultation with private sector for improvement of investment climate, dissemination of change of investment related rules and regulations, given the prospective CPCAI's dissolution situation, it is expected that ANAPI's will provide leadership in implementation of policy measures as well as role for policy formulation by addressing private business issues that will become more and more important.

8.2 Recommendations

8.2.1 Guideline for Investment Promotion and Policy Formulation towards Efficient Resource Allocation

(1) Formulation of Relevant Policies and Development of Legal System

In formulating investment policy, it is necessary to formulate a policy vision for key domains such as industry and trade with a view to ensuring integrity of relevant policies and doing more effective resource allocation. In addition, when implementing investment promotion in specific industry sectors, it is also needed to plan investment promotion by formulating policy measures that reflect each industry's specific features. In the area of communication business, some cases are observed that business license and regulatory structure constructed by focusing on revenue have become impediments for participation of private business and sound growth of communication industry. Therefore, it is necessary to establish a legal system that corresponds with the industry's feature and induce industry development in accordance with industrial policy. In the agricultural sector, it is recommended that DRC government should also consider developing legal system that is consistent with the above mentioned direction.

(2) Formulation of Regional Development Strategy In Accordance With Industry Development Scenario

In order to promote economic development in a vast national territory like DRC, a feasible method is to select core region and plan investment promotion by gradually reducing investment cost and promote industry development. It is also desirable to develop an institution that would promote industrial location as well as implementing infrastructure development by priority-setting based on city and industrial distribution.

At present, although some cases of provincial economic development plan can be observed, the guidelines are not clear for local economic development and direction of securing revenue and its allocation in the areas of securing local revenue, reallocation and transfer of national revenue to local government which are caused by division of provinces and new creation which has been enforced after October 2015.

Having pointed out the above issues, it is recommended that DRC government should formulate a development strategy in by region by designating strategic economic zones, taking into account of such factors as transportation access and cultural background. In particular, these strategic regions include: Kinshasa; economic corridor of Western Congo region with Matadi port that starts from the mouth of Congo River; North and South Kibu; and respective economic zones with neighboring countries in Katanga. The regions should be prioritized to lead economic growth in the country based on appropriate development plan and resource allocation.

World Bank has taken up Western Congo region as “Western Growth Pole” and providing multiple opportunities that combine industry development related to agriculture & agro-processing industry and Maluku SEZ that is the first SEZ in DRC which adopts SEZ system as to be mentioned later.

Similarly, DRC government can consider formulating regional development strategy and focusing on developing infrastructure in Katanga region by regarding Katanga and Zambia as one economic zone. It is possible to develop supply chain that links various potential products in surrounding regions with main markets by promoting important logistic infrastructure, production infrastructure, and logistic & urban infrastructure of major cities between Katanga region and Kinshasa.

8.2.2 Policy Measures for Improvement of Investment Climate

For attracting foreign investment, DRC government should address some important issues related to risk and cost factors for investment. Among other things, as most critical issues, the recommendations for capacity enhancement of taxation, infrastructure development for logistics and investment promotion agency are discussed below.

(1) Response to Issues Related to Tax System and Tax Collection

In the taxation area, DRC government should enhance transparency for tax collection and public finance management through reduction of investors’ burden and strengthening accountability. In this regard, it is necessary to thoroughly review the whole structure of taxation system including tax collection by local governments and establish discipline and order. It is required for the government to implement appropriate taxation system and public financial management by taking into account of the balance between revenue and expenditure and tax revenue from industry like mining that is buffeted by changes of international market prices. However, expecting DRC government to engage in such radical response seems not realistic given the situation of its current administrative capacity. Therefore, in short-term, the government should make efforts as far as possible on reduction of investors' tax burden, enhancement of transparency so that foreign investors can avoid compliance problems that they face and improvement of accountability for expenditure.

As for reduction of investors' tax burden, it is necessary to make efforts to reduce effective tax rate as well as simplification of tax payment procedure (Single Window) that has been implemented so far. As it has been mentioned in Chapter 6, it is considered to be appropriate to reduce company's tax burden by reducing corporate income tax rate that is rather high by international standard. While the government needs large amount of finance for infrastructure development for economic development, at present taxation is structured to focus on a part of the formal sector including foreign investors as the country has high ratio of informal sector like other developing countries. In this regard, the government should fully recognize the necessity to balance between generating revenue and investment promotion for long-term industrial development.

In addition, DRC government should enhance information sharing on public finance and improve accountability. It is necessary to set notification period and accountability for its administrative procedure for the introduction of new tax and change of tax system, performance management of expenditure and administrative service, and the result of performance.

(2) Enhancement of Logistic Function

The main factor for business cost in DRC is the function of international and domestic logistics. Enhancement of logistic function and reduction of its cost is expected to significantly increase competitiveness of industrial growth of economic activities in important regions in DRC represented by Kinshasa. In addition, enhancing connectivity intra and inter regions of significant economic activities in the country will also increase attraction as investment destination by integrating resource and market which are scattered in each region.

Table 8-1 Logistic Infrastructure Development for Regional Industrial Promotion

Target Region	Items of Development	General Description
Western Congo Region	Strengthening Function of Matadi Port (and Boma Port) 1. Improve performance and cost reduction by privatization of operation 2. Enhancement of surrounding logistic facility Reduction of logistic related tax burden · Reduction of tax burden such as port handling charge	3. To reduce logistic cost by strengthening function of Matadi Port and enhancement of surrounding logistic facility. 4. In addition, to reduce port charge and tax burden by improving efficiency of tax collection through increasing treatment capacity.

Target Region	Items of Development	General Description
Kinshasa region-Former Equator Province, Former Oriental Province	・ Infrastructure development of river port ・ Development of river port operation system ・ Nurturing of private operators for river transportation	・ Enhancement of access of agricultural products by improving river transportation quality and cost reduction ・ Enhancement of access to inland markets
Former Katanga Province	・ Development of logistic network between Kasumbalesa, Lubumbashi and other cities ・ Development of railway network between Lubumbashi and Angola border	・ To improve connectivity of SADC and COMESA countries. (However, it is necessary to promote integration to regional economic community through institutional aspects)
Whole nation	・ Promotion of air transport sector	・ To improve access by developing efficient air transportation network between domestic major cities and remote places

Source: JICA Study Team

Furthermore, although it relates to a part of diplomatic and trade policy, it is expected that effective participation in regional economic integration will benefit modernization and simplification of administrative procedures in the regions like Katanga and Kibu that have strong economic connection with neighboring countries.

(3) Development of Effective SEZ System for Strategic Industry Development

Given the above mentioned situation of high cost burden entailed by taxation and underdevelopment of infrastructure and governance issue represented by corruption in DRC, it is recommended to effectively take advantage of SEZ system that aims to selectively establish attractive operational environment in strategic locations.

Although the progress of SEZ system has to be confirmed with World Bank/IFC, since DRC has been preparing for institutional development with their support, the details of the system in response to such issues as fiscal incentive, non-fiscal incentive as deregulation and governance had not been decided yet as of the time of information collection in this study. DRC government is scheduled to establish SEZs in each province including new provinces, starting from the above mentioned Maluku. Supposing developing infrastructure of industrial parks and industrial location, it is crucial to formulate site development plan, develop implementation regulation for selection of developers that are responsible for on and off site infrastructure development and establishment of an institution that provides incentive in SEZ as well as its capacity enhancement.

(4) Strengthening Capacity of Government and Private Sector for Investment Promotion

Although DRC government implemented privatization for public service provision, the result has not contributed to improvement of public service. In this regard, it is necessary to implement institutional building to promote private sector (including foreign investors) participation in public service sector for strengthening its function.

Meanwhile, as it can be observed in the power sector, some companies in mining sector provide capital to former SOEs/SNEL and undertake power generation/distribution business to secure power needed for their own operation. Such approaches urgently need development of an appropriate legal system.

8.2.3 Strengthening of Function of Investment Promotion Agency

(1) Assurance of Transparency in Policy Formulation and Dialogue with Private Sector

In order to implement investment promotion, it is crucial to have an institution that maintains motivation within the government toward improvement of business/investment environment and promote effective policy measures which take consideration of investors' perspective. In this regard, DRC government should fully focus on strengthening ANAPI's function associated with consolidation of CPCAI with ANAPI. At the same time, it is required to strengthen ANAPI's consultation capacity for private sector in order to increase transparency of policy formulation and institutional operation.

(2) Information Provision and Strengthening Liaison Service

It is confirmed that ANAPI has been providing investors with a certain level of information and liaison service. However, given the situation of ANAPI's limited budget and manpower, DRC government should adopt an effective service implementation method in terms of the ways in which information provision is made and support of various administrative procedures in order to accelerate investors' decision making and make facilitation from business start up to smooth operation in complicated and difficult business environment.