

# Preventing Corruption in Africa: Emerging Challenges in the Mining Sector of the Democratic Republic of Congo\*

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## Abstract

*The globalisation of economies and markets, brings out the full importance of the responsibility on the part of national, regional and international authorities as regards competitiveness and support of sustainable local development.*

*The extractive sector of natural resources is a good example of this phenomenon which involves several countries (often in less development areas) and large international enterprises which need for good procurement system.*

*The corruption in business relationship is a barrier for development in Africa because it could be both a significant risk factor for international company investments and an inadequate solution to promote a real local development.*

*In particular, the article is intended to provide an overview of the mining sector in Democratic Republic of Congo following the recent evolution of bribery connected to the rules of ITIE (Initiative pour la Transparence dans les Industries Extractives) and the emerging issues related to corruption and local development opportunities.*

**Keyword:** Competitiveness; Sustainable Development; Networking; Sustainability; Corruption in Africa; Tripartite Approach; Democratic Republic of Congo; Global Markets; Multinational Firms

## 1. The Impact of Corruption on Business Activity: the Case of African Countries

Corruption is a growing challenge for businesses and society (Transparency International 2009). It represents 5% of the volume of total global economic output

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translating into some US\$1.5 trillion per year (Ostermann, Staudinger 2008). The impacts of corruption on the world economy are leading to low economic growth, stifled investment, increased inequality, and the inhibited provision of services (Dreher et al. 2007). Corruption is a pervasive stain on the industries in many countries especially in construction and extractive ones. Corruption is reported to increase income inequality and poverty (Gupta et al. 2002).

Corruption is a serious threat to economic progress for developed countries and especially for emerging economies, and it generally prevents free market access.

Developing countries are particularly susceptible to corruption (Fantaye 2004). Africa is no exception and the extensive corruption are negatively affecting on the attainment of sustainable development (Pillay 2004).

According to the United Nations Development Programme (UNDP 2008), Bowen et al. (2012) define corruption as: “the misuse of public power, office or authority for private benefit through bribery, extortion, influence peddling, nepotism, fraud, speed money or embezzlement”. Transparency International takes into account the fact that corruption also prevails in the private sector (Transparency International 2010) connected to the ‘misuse of entrusted power for private gain’ (Bowen et al. 2012).

The corruption in private and public sector has its roots in the economic and institutional conditions of the less-developed countries: a weak legal system (Rose-Ackerman, Coolidge 1997), a predominant government role in the economy (Antunes, Cavalcanti 2007), easy access to petro-rich state coffers (Ades, Di Tella 1999) by rulers who abuse their positions to self-enrich (Osoba 1996), lack of transparency in government expenditures, (Kolstad, Wiig 2009) and political norms that legitimate such behavior (Herbst 1996). Smith (2007) and Olowu (1999) describe the debilitating effects of a pervasive ‘get rich quick’ culture and a lack of bureaucratic morality.

Some studies have demonstrated that corruption discourages foreign direct investment (Oko 2001; Wei 2000). Also, corruption compels businesses to go underground in the informal economy (Schneider, Enste 2000). Paradoxically, several studies have suggested that in highly-regulated and bureaucratic environments such African countries, corruption may have an upside by allowing business owners to bypass bureaucracy (Aidt 2003; Leff 1964; Me´on, Weill 2010; Nye 1967).

Entrepreneurship and illegality are often connected and entrepreneurs use bribe payments to custom officials to facilitate illegal cross-border trading and corruption, among other institutional factors, to be detrimental to business and local entrepreneurs.

Few studies have specifically addressed how quotidian entrepreneurs and business owners actually experience corruption, and respond to it (Ufere 2012).

Bribery and corruption are now recognised by economists to be a major impediment to development and a subject worthy of both academic scrutiny and policy redress.

Although the international business community cannot fight bribery and corruption on its own, it nevertheless has a crucial role to play. Indeed, some would argue that the management tools that businesses use in the fight against bribery are as important to the successful outcome of that fight as formal law and public enforcement. Many firms have responded to the challenges of legal and ethical compliance in this area by using management control techniques that have emerged over the last twenty years. (Gordon, Miyake 2001; Bondy et al. 2008)

A number of private and inter-governmental organisations have contributed to the developing consensus on the definition of bribery. At the same time many companies seek to protect themselves against the risks of corruption by going beyond policies and controls and building a culture of ethics and compliance. In this way, healthy organizations will give themselves the best chance of avoiding difficult situations in the first place rather than having to deal with them when they happen.

Forms and determinants of corruption depend on each sector. In an overview, the objective of this study is to identify the forms of corruption in the mining sector, its implications for the suspension of the DRC EITI and the importance of tripartite initiative to cope the corruption phenomenon.

To achieve this goal, this study will use the inductive and deductive methods. The inductive method is used to looking through an empirical generalizations which introduces parameters under observation actors (the government, companies, investors and civil society). The deductive method is used throughout the theory by identifying the practices carried out and arranged in proposed theories and deduce consequences that make predictions.

## **2. How to Prevent Corruption by Multinational Enterprises: Towards a Tripartite Approach**

The corruption is a important problem especially for global companies which operate in developing countries. Global companies routinely get into trouble when managers make payments to, say, win a business contract, gain regulatory approval of a product, reduce their taxes, or avoid customs duties. Multinational companies are forbidden to pay bribes both by the local laws of the countries in which they operate and by laws in their 'home' jurisdiction. All such laws prohibit managers from offering anything of value to a government official, political party, or party official with the intent to influence that person or to secure an improper advantage in obtaining or retaining business. (Venkatesan 2014).

Especially in the long term perspective, corruption reduces business opportunities. Many countries, which are rich in natural resources, are affected by low or limited economic and social development and present situations where corruption is spread very easily. Some global companies seek to eliminate sources at risk of corruption by excluding these countries from their sourcing strategies. Such strategy generates a reduction in the amount of supply of natural resources, with repercussions on the world markets and they limit dramatically development opportunities of local contexts.

Many companies engaged in the supply of natural resources are implementing code of conducts focused on corruption for their mangers and due diligence systems to mitigate the risk of participating in corruption. These companies aim to avoid damage to the brand company and at the same time avoid a reduction of supply sources.

Most companies are aware of the need to implement social and environmental standards, including supplier control mechanisms (Jenkins et al. 2002; Beschoner, Müller, 2007; Seuring, Müller 2008; Müeller et al. 2009). As a result, global

corporations have developed ethical charters and codes of conduct to ensure acceptable working conditions within their supply chains (Mamic 2005; Pedersen, Andersen 2006).

These corporations attempt to implement, especially in developing countries' supply chain factories, their own codes of conduct, which seek to condense a mix of standards from national laws, international guidelines, corporate codes, technical standards, and actual best practices (such as ISO standards, ILO, OECD Guidelines, SA8000, and Fair Labour Association) (Logdson, Wood 2005).

The companies are motivated to implement programs of business ethics and compliance, and through these programs they can control their behaviour and are able to predict and prevent behaviour drifts before they will occur. But the implementation of an ethical behaviour is not straightforward. In the case of multinational companies, behaviour must be adapted to each country in which it operates, because what is accepted in some parts of the world, in others it is forbidden; but a company must always respect international regulations. Both the companies and employees need guidance in business ethics.

The development of an ethics program is a method frequently used for organizing responsible behavior within organizations. For such a program, certain preconditions have to be created in the structure, culture and strategy. In this organizational context, managers have to take their decisions in a responsible way.

However, the business activities in areas affected by corruption is extremely difficult if left to the individual company, although it is large. The problems related to corruption are complex and require skills which are difficult to obtain in a business context.

The industry response to these issues has been generally to defend its *modus operandi* on economic grounds and secondly to claim compliance with national laws and regulations. It is also argued that the treatment of indigenous people, land rights, mine security, and protection of human rights must necessarily fall within the purview of national governments here the industry's ability to take action is quite limited (Sethi et al. 2011).

Global companies need to share expertise, models and best practice to prevent corruption in specific local context. There is a lack of knowledge that can be bridged through an inter-organizational collaboration among large companies, institutions and civil society (Waddock 2008; Nambisan 2009; Risso 2012a). To cope this gap, large companies are collaborating with other companies from the same industry for identifying joint standards (Risso 2012b).

However, economic activity cannot be analyzed without consideration of the institutional context in which it occurs (North 1990; Davis, North 1971; Williamson 1985). Well-established institutional framework is supposed to assist in reducing the uncertainty and risk as well as the transaction costs of entrepreneurship. However, it is also acknowledged that distortions in the formal and informal institutions in many countries can lead to the opposite effects.

Due to the corporate scandals relating to bribery, fraud and corruption, the governments of the affected countries are challenging to react, prevent, detect inappropriate conduct and improve corporate conduct.

Corporates seem to think either that we are not corrupt or that we must go along with underhand practices in markets to secure business. But working with known corrupt

countries and companies may not wash much longer. Many countries are now cranking up their anti-corruption regulations and laws. Very few companies can successfully manage a socially responsible supply chain in low cost regions on their own. For that reason, collaboration is an important final component (Wieland, Handfield 2013). This can take a variety of forms, including collaboration with industry players, trading partners, NGOs and institutions.

The institutions are an important factor that influences the nature, extent and pace of corruption in economic life. The deficiency of the legal and financial framework nurtures corruption in economic and social life (Hellman et al. 2000; Tonoyan 2006)

The development of tripartite initiatives can help to improve the knowledge of local context and to avoid corruption.

In the last decade governmental authorities, international organizations, business and civil society have attributed an increasing importance to the improvement in transparency and accountability in the supply of natural resources. These practices are able to generate huge revenues and, if properly managed, reducing poverty and uncertainty of some geographical areas particularly in countries which are rich of natural resources.

As result, many initiatives have been launched to international politics, mechanisms and standards to address these dilemmas, improve governance and reduce environmental impacts and socio-economic activities of the extractive sector.

### **3. The Tripartite Initiatives in the Mining Sector to Avoid Corruption and Foster Development**

The extractive industry (mining, oil, and gas) by its very nature has an adverse impact on the environment and its operations create irreparable harm in terms of water, air, and ground pollution. Apart from the issue of environmental degradation, the mining industry is also confronted with issues of human rights abuses, mistreatment of indigenous people, and their land rights. Another area of social conflict pertains to bribery and corruption. The challenges in managing these issues become infinitely more complex because a large number of mineral reserves, are located in developing countries that are afflicted with weak and corrupt governments, political instability, and poorly developed regulatory framework to provide effective oversight of the industry.

Environmental protection has gained a high level of public awareness and consequently regulatory oversight from regional and international organizations. In relation to the rights of the indigenous people or local populations, human rights abuses, and bribery and corruption, there remains a wide gap between what is needed and what is being done, and what is being promised and what is being delivered (Sethi et al. 2011).

In this framework, various industry groups have initiated voluntary codes of conduct to address one or more aspects of these issues (i.e. International Council on Mining and Metals - ICMM) and they are fostering tripartite initiatives. These include, among

others: United Nations Economic Commission for Africa (UNECA); the Extractive Industries Transparency Initiative (EITI).

□ *UNECA is instituted by the Economic and Social Council (ECOSOC) of the United Nations (UN) in 1958 as one of five regional commissions of the United Nations. The mandate of the Court of Auditors is to promote the economic and social development of its Member States, foster intra-regional integration and promote international cooperation for Africa's development.*

*UNECA is composed of 54 Member States and playing a dual role as a regional arm of the United Nations. This initiative play a key component of the institutional landscape of Africa is well positioned to make a unique contribution to meet the challenges of the development of the continent.*

*One of the areas of focus UNECA is precisely the area of natural resources (Natural Resource Management): an important aspect of the work on natural resources is the policy-oriented research that aims to support the policy, legal and regulatory frameworks for the proper management of natural resources in Africa.*

*In addition, the UNECA aims to improve the knowledge base needed to strengthen human and institutional capacities and to expand the participation of stakeholders in the protection of the environment in Africa and management of its mineral resources. In the same vein, the same works to promote measures to address environmental issues in the exploitation of natural resources in Africa (UNECA)*

□ *The EITI initiative was launched by the British government in 2002 to address the general inability to transform the wealth of resources in sustainable development ('resource curse' or 'paradox of plenty') and governance issues associated with the extractive industries. The EITI aims to intervene in the middle of the value chain, either upstream or downstream. The EITI has become an initiative worldwide: more than 20 countries have pledged to follow its principles and criteria, the majority of which are African countries. Its scope and its mandate can be expanded, revenue transparency and strengthened the initiative extended to issues upstream and downstream and environmental management (Jourdan 2006).*

#### **4. Corruption in the Mining Sector: The case of DCR**

The mining sector occupies a place of choice because of its ability to contribute revenue in the national budget in the Democratic Republic of Congo (DCR) but also in view of the positive externalities of this sector. The major issues raised in this sector are: procurement between the government and multinational companies, transparency in revenue management and the mode of payment, followed by contract management, availability of information to the public, etc.

The DRC is a member of the Initiative for Transparency in the Extractive Industry since 2005 and it was suspended for a period of one year because of the principles of the EITI; our analysis shows that this sector is actually riddled with corruption at all levels hence the need for government to assume its responsibility in hands.

Democratic Republic of Congo (DRC) has joined the initiative in 2005 and was declared a candidate 'who made significant progress' since 2008. After the publication of his third report, covering 2010 country, the DRC has seen its candidate status temporarily suspended for 12 months by the Board of Directors of the EITI. That the suspension be lifted and that the country attains the status of Compliant country, the DRC is expected to release before December 31, 2013, its fourth report on the year 2011 taking into account corrective measures. These measures mainly concern the definition of materiality, completeness of reporting by all companies involved and all flow frame of reference (DRC EITI Report 2011).

In the DRC, the bodies that coordinate the activities of the ITIIE were created by the Prime Minister's Decree No. 09/28 of 16 July 2009. They include two main bodies: the Executive Committee, which decides on the implementation of the initiative across the entire country and the Technical Secretariat is the executive organ.

#### **4.1 Corruption in DCR**

In order to understand the phenomenon of corruption as it is increasingly criticized publicly in Congo as it is perceived in the international political and financial circles, it is necessary to relocate in history recent of the nation. It is also necessary to carefully study the mechanisms by which it manifests itself and how it has grown to become the point of becoming a deep structuring principle of national life and a tumor in the functioning of institutions.

When the Congo gained independence in 1960, the word and the practice of corruption are not realities that mobilize consciences against them. They do not exist as harmful as collective social dynamics or evil attract any particular attention from the nation or from the world.

If we locate the emergence of corruption in Congo at this point in its history, this is not to divide the time between a period that would be heavenly and would fall before 1960, and a period of darkness that would have been installed while in this country.

To understand the corruption in the form it has taken in DR Congo, it is good to put in the clarity of thought these characteristics related to its emergence as a political and social problem in the morning of its independence.

According to Frantz Fanon neocolonialism made the bed of corruption in buying local elites. In the way Mobutu was 'approached' to torpedo the project of independence embodied by Lumumba, Belgium and the United States of America has laid the foundation for a system that would develop later to become pest essence of the Second Republic yesterday and today the Third Republic. This system consists of 'buy' people to be with them an elite thirsty for money and power, manipulated thank you, who is willing to destroy the entire project of freedom for the nation and live consciously or unconsciously according to expectations neocolonial forces. Corruption in the DRC, it is the corruption of elites, that is to say the new ruling class which

Mobutu forged and molded the minds, a class whose mechanisms of political power supply still even today, the negative and destructive energy.

Tell us that betrayal and moral decay only became a mode of being from the moment where elites have undertaken to create a nation in their image. This is when Mobutu established the one-party system where he enlisted the ruling elite that the people realized all he could take advantage imitating the practices of its princes of power: it learned to fly, to divert public funds to sell its services against hard cash, to consecrate money and to sacrifice all the values. The whole country is rotten: and he lost the sense of the common good and the reference to transcendent standards that underpin the being-together of a nation. At this level of decline of society, the system, as said the Cameroonian philosopher William Henry Ngnepi “pervert dissolved individuals social ties and sprayed values”.

As the fish rots from the head down, DR Congo was rotten from its leadership in a system that is still at work until the present time when the Third Republic also manifests as corrupt, if not more, the second.

The mining sector is not immune to the scourge of corruption.

The anti-corruption adviser to the United Nations Office against Drugs and Crime (June 18, 2012 ) said that corruption had worsened in the DRC despite the introduction of new anti-corruption laws. For Professor Muzong Kodi, at a workshop against corruption (Radio Okapi/Ph. John Bompengo), only the political will of the Congolese leaders can help to eradicate this evil from Congolese society.

Among the initiatives taken by the DRC in the fight against corruption, anti-corruption adviser to the United Nations Office against Drugs and Crime, quote mining and forestry codes, as well as the creation of the observatory professional ethics.

In addition, the DRC joined the Kimberley Process and Transparency Initiative Extractive industries, not to mention the operation zero tolerance in place for several years to fight against impunity.

The results were mixed. One of the major reasons is the lack of political will to fight against corruption, even at the highest level of the state.

Dysfunction of the justice sector that made even the people who are caught red-handed can get away with very little cost. Impunity is guaranteed, natural resource wars that continue to the east are the initiatives against corruption are not echo and it is widespread corruption tolerance.

#### **4.2 The Access to EITI**

In order to clarify the activities of the mining sector and its potential to serve a Congolese population the DRC acceded in 2005 to the initiative for the Extractive Industries Transparency (EITI)

The EITI is a process through which stakeholders make available to people through the preparation of periodic reports by independent consultants, income and revenues derived from the exploitation of mineral and petroleum resources such State as royalties, taxes, signing bonus, production bonuses, royalties, dividends and taxes diverse.



The purpose of the EITI is to strengthen good governance by improving transparency and accountability (accountability) in the mining sector through the collection, verification, reconciliation and publication of all payments made by public and private companies in behalf of the State.

Two factors in particular stand EITI other efforts to share more widely the benefits of mining. First, it focuses explicitly on transparency, which helps create a culture of public accountability and to gain public confidence in the extractive industries.

The second factor crucial aspect is the multi-stakeholders structure of EITI : that is to say, it involves the Government, Business and Civil Society. Leaders of the three sectors support the initiative at international level, and the principles and criteria for the EITI programs have been developed in the light of experiences worldwide. The three sectors should also be actively involved at the national level to achieve transparency and its associated benefits.

EITI Principles and the cornerstone of the initiative are:

- We share a belief that the prudent use of natural resource wealth should be an important engine for sustainable economic growth that contributes to sustainable development and poverty reduction but lack of good management, may adverse impact on the economic and social terms.
- We affirm that management of natural resource wealth for the benefit of citizens of a country under the jurisdiction of sovereign governments to be exercised in the interest of their national development.
- We recognize that the benefits of resource extraction occur as revenue streams spanning many years and can be highly price dependent.
- We recognize that public understanding of revenue and government expenditure in time could help public debate and inform choice of appropriate and realistic options to promote sustainable development.
- We stress the importance for governments and mining companies, ensuring transparency, and the need to strengthen the management of public finances and to enforce the obligation of accountability.
- We recognize the need to locate the efforts to achieve greater transparency in a context of respect for contracts and laws.
- We recognize that financial transparency is a way that could contribute to improving the climate for domestic and foreign direct investment.
- We believe in the principle and practice of accountability by government to all citizens in the stewardship of revenue streams and public expenditure.
- We will encourage compliance with high standards of transparency and accountability in public life, the functioning of the state and the world of commerce.
- We believe in the need for a consistent and workable approach to the disclosure of payments and revenues, this approach to be easy to adopt and implement.
- We believe that payments' disclosure in a given country should involve all extractive industry companies operating in that country.
- When it comes to finding solutions, we believe that all stakeholders - governments and their agencies, extractive industry companies, service

companies, multilateral organizations, financial organizations, investors and non-governmental organizations - have important and relevant contributions to make.

- All material payments by companies to governments, operating under the Oil, Gas and Mining ("payments") and all material revenues received by governments from oil, gas and mining ("revenues") are regularly published and disseminated to the public in a comprehensive and comprehensible accessible form.
- Where such audits do not already exist, payments and revenues are the subject of a credible, independent audit in accordance with international standards on auditing.
- Payments and revenues are reconciled in accordance with international auditing standards by an independent director worthy of trust, which publishes its opinion regarding that reconciliation of accounts and possible discrepancies.
- This approach is extended to all companies including state-owned enterprises.
- Civil society is actively involved in the design, monitoring and evaluation of this process and contributes towards public debate.
- The host government is developing a work plan public, financially sustainable on the above, with the assistance of international financial institutions where required, this plan including measurable targets, a timetable for implementation and an assessment of possible constraints in terms of capacity.

The EITI represent a tripartite initiative and it offer the following advantages for the actors involved.

*□ For companies and investors: political instability that causes an opaque governance is obviously a threat to investments are capital intensive and dependent on the long-term stability to generate returns, reducing such instability is advantageous. Transparency can also help to create a level playing field for all businesses and by making public what it pays to the government, a company illustrates the contribution that brings its investment in the country.*

*□ Civil Society: benefits for civil society hold the largest volume of information available in the public domain on revenues that governments manage on behalf of citizens. These and more can easily hold accountable their government; and to ensure, through several initiatives and advocacy, the revenues are actually used for necessary investments for the benefit of the population and sustainable development of the nation.*

Organizations from civil society play a key role in the EITI, including the commitment to advocate, monitor the process of implementation and help ensure that the EITI reports are widely understood.

The countries involved in the implementation of the EITI countries producing oil, gas and minerals. Although the EITI is an international standard, its implementation is the

responsibility of national governments with the active participation of civil society and extractive industries.

Following the revision of the rules of the EITI in February 2011, any country wishing to join the EITI must meet the following five requirements:

- make a public statement unequivocally its intention to implement the EITI;
- make a commitment to work with all stakeholders (civil society, oil companies, gas and mining) to implement the EITI;
- appoint a senior official responsible for directing the implementation of the EITI;
- Establish a multi-stakeholder group to oversee the implementation of the EITI;
- In consultation with key stakeholders of the EITI multi-stakeholder group should agree and publish a national costed work plan with measurable objectives and a timetable for implementation, including an assessment of capacity constraints.

If these five requirements are met, the country obtains from the International Board of Directors the status of 'candidate for EITI' or 'Countries implementing the EITI'.

A country is implementing the EITI through its national work plan of the EITI. It must be able to publish regular reports on receipts and payments from extractive industries. It is also subject to validation.

It should set up a multi-stakeholder group that includes representatives from government, mining and civil society. The group responsible for implementing the EITI must select a firm to reconcile the statements of government and business.

The multi-stakeholder group is responsible for:

- develop and adopt the model forms of financial information that companies must use to report payments they have paid to the government;
- develop and adopt the model forms of information that the government must use to report payments he received from these companies;
- choose by consensus, the conciliator or independent director responsible for producing the independent report on revenues from extractive industries;
- publish the EITI report on receipts and payments in the extractive industries;
- disseminate the report to the public and organize debates on revenues from extractive industries across the country;
- To make accessible the EITI report, MSG may, according to its communication strategy developed;
- publish the report on its website;
- organize an awareness campaign across the country;
- organize televised debates on the EITI report;
- organize lectures, debates ...

#### **4.4. Suspension of the EITI for DRC**

The DRC has been suspended for one year of the Initiative for the Extractive Industries Transparency (EITI), an organization that promotes revenue transparency in the mining and oil sectors. The Board of Directors meet EITI says “a lack of completeness” and considers inadequate the ‘Data Quality’ in reports submitted including the absence of certain income after taxes, including ‘No door, Royalties, Joint –venture’ to believe the EITI South Kivu and Maniema anchorperson.

According to the methodology of the EITI, mining companies publish what they pay and governments are aware of the income they receive in a report. This process is intended to allow an independent audit of taxes collected to ensure the transparency of payments from the exploitation of natural resources.

The one-year suspension will be lifted if the organization believes that the DRC has completed the ‘corrective measures’ requested. But if the suspension remains in effect more than a year, that is to say beyond the April 17, 2014, the Board will consider strike the country; so far the suspension is not always exercised.

Outside the DRC, five others countries have been suspended: Sierra Leone, Yemen, Madagascar, Mauritania, the Central African Republic

This temporary suspension of the DRC comes just days after the statements of the EITI National Coordinator, Jeremy Mack Dumba, which reported 88 million US dollars paid by mining companies in Katanga in 2010 for royalties but n have not been paid to the public treasury.

In 2008, the EITI had reported a probable exclusion of the DRC, accusing the country of not having provided any report on transparency in the extractive industry in three years. The organization was particularly pointed inadequate legislation that blocks its operation, and does not create a structure to offset the provinces.

But since three EITI reports have been published. The first, published in March 2010, covering the year 2007. The other was released in March 2012 and covers the period 2008-2009. EITI / DRC disclosed in January 2013 another report on the 2010 data and the last month of December 2013 covering the year 2011 and its acceptance could lead to the lifting of the suspension of the Congo EITI.

#### **5. The Evidence of the Corruption in the Sector in DRC**

Corruption is practiced by state services that represent the government in filling certain requirements and obligations in order to improve the mining governance.

This is experienced in various forms at every level of collecting the fees related to the exploitation of mineral resources.

These forms we hold that the major are: underestimation of the value of mining concessions; the failure, refusal or non-compliance in the payment of taxes; freezes or non-compliance with the deadline in the production of study; influence peddling in the procurement of concessions, superficialities right.

We will browse the services of good governance that mining CAMI SAESSCAM PROMINES, a division of mines and the Ministries of Mines, and find what level each quenching voluntarily and / or involuntarily in the practice of corruption.

CAMI: Who is the service responsible for issuing exploration permits and exploitation.

Two forms of corruption are found at this level:

- Intentional in issuing license or operating to encourage the applicant to bribe directly or indirectly for the service delay;
- Discussion of contracts by unofficial persons in the Head of Government 'parallel government' that hinders not only the serious contract negotiations for good procurement but also failures in the implementation and monitoring of contracts.

SAESSCAM: which is a framework for artisanal mining operators service. This service collects three per kg of embedded operating location counter to purchase minerals. However, these revenues are not channeled into the body of the public treasure, which causes massive leakage of funds that benefit more individuals to the entire nation.

PROMINES: it is a service study supported by the World Bank mining projects. Because individual and corporate projects supported by the World Bank in mining through the censorship of this service, last market, in most cases, the approval of these projects.

DIVISIONS AND MINISTRY OF MINES: they are responsible for the political direction of mining projects. With a data bank of results of previous research and / or artisanal mining, the location of mining claims, they make them available to the applicants in proportion to their ability to corrupt.

In the artisanal sector, four manifestations of corruption export were identified:

Payment of taxes:

- Here we have found that there is some friendship between a trader and harrow the account of the public treasury agent. This leads to an unlawful reduction resulting complicity or willful default of payment of the tax.
- There is also the use of parallel receipts by the collection service must export, creating discrepancies between the receipt issued to the exporter and deposited in the account of the public treasury, a service acquired by the trader on payment of a gift.
- There is also a small tax declaration and major omission, the latter being negotiated between the services responsible for the collection and liability (trader).

Determination of quantities: the statements made by economic operators in the countries, in complicity with the state officials in charge are reduced compared to those reported outside the country; this in order to pay a lower amount compared to under the nomenclature for the quantity exported.

Tax Evasion in collusion with agents of the state border, minerals are exploited without payment to the Treasury, which explains the huge export tons of ore undeclared on the bottom of gratuity paid to these agents of the state.

Involvement of authorities: these effects are characterized as ‘peddling influence’ that is to say a particular politico-administrative authority pressure on the service perception of duty to pass without full or partial payment of the tax due to the public treasury.

In view of the reasons for the suspension of the DRC EITI and forms of manifestation of corruption in the mining sector as observed in services skills in this area; we hope is far from the transparency in the sector and thus believe in achieving the goals of EITI and the principles of the EITI equitable distribution of resources to promote growth in DR Congo. Hence our recommendations to address the different levels including the Government of the DRC, the companies, civil society and the EITI.

## **6. The Critical Role of Tripartite Initiative in the Fight against Corruption**

The result of this research provides sufficient evidence that corruption affects deeply the mining sector in Congo and is implicitly responsible for the suspension of the DRC EITI. The purpose of the EITI being strengthened good governance by improving transparency in the extractive industries, it is far from achieving this in DR Congo and to the operation of the mining sector to the benefit of the people.

EITI face remain neutral in order to avoid that these actors do not judge and jury in partnering government had in the treatment of mining contracts.

The Government of the DRC:

- Decentralise of authority over the control of the activities of major mining companies have no accountability to provincial technical services;
- will invest in the choice of the person ability to discuss contracts and legitimacy vis-à-vis the departments to avoid the interference of parallel government;
- is partnering with World Bank and PROMINES in the study of mining projects so that they meet the accepted standards and contribute to the socio-economic development of the country;
- will invest in the fight against impunity and punish any offender compliance with its rules concerning payment of taxes, determining the quantities, rescues documents related to mining, etc.

Businesses:

- demonstrate transparency in reporting the amount and payment of taxes to prevent against present or future inconvenience related to a serious audit of their benefits;
- create a way to reach the public information about their production, revenues, taxes paid and to allow a comparison between the reports of government departments and their actual benefits taxes.

Finally, civil society:

- can really play its role against the weight to power in asking for distributive justice that revenue from the mining sector can be beneficial to all;
- will invest in awareness and dissemination of information on the mining sector to the population in order to generate debate.

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