



**Protocol on Finance and Investment Baseline Study: Democratic Republic of Congo Country  
Report**

February 2012



Making financial markets work for the poor



## **Protocol on Finance and Investment Baseline Study: Democratic Republic of the Congo Country Report**

A report reflecting the state of progress of implementation of the Protocol on Finance and Investment in SADC

### **Imprint**

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## LIST OF ABBREVIATIONS

ANAPI	L'Agence Nationale pour la Promotion des Investissements
BCC	Banque Centrale du Congo
BIS	Bank of International Settlements
CCBG	Committee of Central Bank Governors
CISNA	Committee of Insurance, Securities and Non-Banking Financial Authorities
CMSA	Capital Markets and Securities Authority
DFI	Development Finance Institutions
DGI	Direction General des Impôts
DRC	Democratic Republic of Congo
DTA	Double Taxation Avoidance
ESAAMLG	East and Southern African Anti-Money Laundering Group
FATF	Financial Action Taskforce
FCA	Foreign Currency Account
FIAS	Foreign Investment Advisory Service
FIP	Protocol on Finance and Investment
FSAP	Financial Sector Assessment Programme
GDP	Gross Domestic Product
HIPC	Highly Indebted Poor Countries
IAIS	International Association of Insurance Supervisors
ICSID	International Centre for Settlement Investment Disputes
IFRS	International Financial Reporting Standards
IMF	International Monetary Fund
IOPS	International Organisation of Pensions Supervisors
IOSCO	International Organisation of Securities Commissioners
IPA	Investment Promotion Agency
MAC	Monetary Affairs Committee
MDRI	Multilateral Debt Relief Initiative
MIGA	Multilateral Investor Guarantee Agency
MoF	Ministry of Finance
NBFI	Non-banking Financial Institutions
NCP	National Contact Point
NDC	National Development Corporation
NPS	National Payments System
OHADA	L'organisation pour l'harmonisation en Afrique du droit des affaires

OECD	Organisation of Economic Cooperation and Development
PRGF	Poverty Reduction and Growth Facility
REC	Regional Economic Community
RISDP	Regional Indicative Strategic Development Plan
RTGS	Real Time Gross Settlements
SADC	Southern African Development Community
SME	Small and Medium Enterprises
SMSD	SADC Macroeconomic Statistical Database
SOFIDE	Société Financière de Développement
UN	United Nations
USD	United States Dollar

# 1. CONTEXT

The Democratic Republic of the Congo (DRC) experienced a difficult political and economic period up until 2006, but the country has immense potential in terms of both agricultural and mineral resources. The remnants of conflict have left much of the country's infrastructure badly damaged, the Congolese economy fragile, and many institutions weak. The United Nations (UN) estimates that there are 2.3 million internationally displaced persons in the DRC, increasing both political and economic pressure. The DRC is a country in dire need of reconstruction and development, in order to improve socioeconomic conditions and reap the benefit from the country's considerable natural riches.

The DRC has made considerable progress in improving its macroeconomic outlook as a beneficiary of the Heavily Indebted Poor Countries (HIPC) initiative and the Multilateral Debt Relief Initiative (MDRI). The DRC government has implemented a number of reforms to consolidate the progress made under these IMF (International Monetary Fund) programmes, including the Governance Contract of 2007, which targets four areas; namely:

1. Decentralisation of government
2. Public finance management
3. Public administration
4. Transparency of policy process and government budgets

The DRC government has also implemented a number of rational macroeconomic policies, in part through the support provided by the IMF's Poverty Reduction and Growth Facility (PRGF) – the first two reviews of which have been completed satisfactorily.

According to the World Bank, the DRC's medium term growth outlook is positive, boosted by investment and growth in the extractive industries and the civil engineering and service sectors.<sup>1</sup>

## 2. STATUS OF FIP IMPLEMENTATION

### 2.1. STATUS OF FIP RATIFICATION

The Head of State of the DRC has not been given the approval by Parliament to ratify SADC's Protocol on Finance and Investment (FIP). There have been a number of changes in staffing in the DRC's government departments over the past few years, which has prolonged this delay. The Protocol will be presented at the first sitting of the parliament in March 2012 and is

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<sup>1</sup> Information in this section taken from the World Bank's overview of the Congolese economy at: <http://web.worldbank.org/WBSITE/EXTERNAL/COUNTRIES/AFRICAEXT/CONGODEMOCRATICEXTN/0..menuPK:349476~pagePK:141132~piPK:141107~theSitePK:349466,00.html>, and Africa Economic Outlook's analysis at <http://www.africaneconomicoutlook.org/en/countries/central-africa/congo-democratic-republic/>

expected to be approved for ratification. The DRC expects to submit the ratification instruments to the SADC Secretariat in the first half of 2012.

The Ministry of Finance (MoF) however, did indicate that they have never received a certified signed copy of the Protocol document from the SADC Secretariat which has added difficulty to the ratification process and further delayed DRC's ratification of the FIP.

## **2.2. FIP STRUCTURES**

The SADC National Contact Point (NCP) is housed with the Secretary General of the Ministry of Regional and International Cooperation. However, information is often sent to the Embassy of the DRC in Pretoria at the South African Ministry of Foreign Affairs. This results in delays in communication with FIP stakeholders, since the information has to be sent back to Kinshasa for distribution.

In 2011, the MoF was delegated responsibility for the FIP coordination. As of February 2012, the Banque Centrale du Congo (BCC) and the Agence National de la Promotion d'Investissement (ANAPI), and Inspection Generale des Finances (however, relevant stakeholders are uncertain why they were included as they are an auditing agency) attended the relevant FIP subcommittees (Annex 1, Annex 2, and Annex 4 to 8). No other DRC institutions have attended FIP subcommittee meetings.<sup>2</sup> However, even though Ministry of Planning officials have never formally attended any meetings of FIP structures, officials have been involved in various issues associated to the FIP.

Communication amongst institutions mandated to implement the FIP is minimal, and in many cases non-existent. It is absolutely critical that *an appropriate coordination structure be established in the DRC* to ensure that the various institutions speak to each other. It is imperative that the MoF becomes involved in the relevant FIP subcommittees.

### **2.2.1. ANNEX 1: COOPERATION IN INVESTMENT**

The DRC was ranked 176<sup>th</sup> (out of 183 countries) in the World Bank *Doing Business* report in 2011.<sup>3</sup> This was an improvement of four places from 2010, attributable to reforms which make it easier to set up a business, obtain building permits and transfer property. According to the World Bank, the Congolese government's strategy to support large-scale infrastructure projects and implement trade facilitation reforms will also contribute to improving the investment

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<sup>2</sup> There is some uncertainty as to who attended the Stakeholder Workshop in August, as the list indicates someone from Ministry of Finance in attendance, however; that representative indicated that he was not at the workshop. Additionally, the Inspector General des Finances, has attended other meetings but this institution is not directly relevant for FIP implementation.

<sup>3</sup> Information available at: <http://www.doingbusiness.org/data/exploreeconomies/congo,-dem--rep~>

climate.<sup>4</sup> The DRC scores 3.3 for the OECD Organisation of Economic Cooperation and Development (OECD) Investor Protection Index, much below the 6.0 OECD average.<sup>5</sup>

The DRC's "Code des Investissements" (Law No. 004/2002, 21 February 2002) articulates significant protection of both private and foreign investors. DRC law stipulates that all investors, foreign and domestic, have right of access to both local and international courts and legal due process. The repatriation of profits is permissible but subject to the various conditions defined in the Code. The DRC constitution also guarantees property rights. All investments (either direct or indirect) cannot be nationalised either in full or in part by a new law or a local decision. The sole exception is if nationalisation is in the public good, in which case fair and equitable compensation will be provided.<sup>6</sup>

DRC ratified the ICSID international convention<sup>7</sup> in April 1970 and is a member of the World Bank's Multilateral Investment Guarantee Agency (MIGA).<sup>8</sup> DRC has yet to sign the New York Convention on the Recognition and Enforcement of Foreign Arbitral Rights<sup>9</sup>, however; accession to this international agreement has been approved and is awaiting promulgation by parliament in 2012. DRC's accession is motivated by continuing progress with regards to improving the investment climate.<sup>10</sup>

ANAPI is the Investment Promotion Agency (IPA) of the government of the DRC, whose establishment was given effect under the "Code des Investissements". ANAPI is responsible for the promotion of investments in all sectors other than mining. All relevant investor information and laws pertaining to investments are provided on ANAPI's website<sup>11</sup> ANAPI officials stated that they have participated in the SADC IPA Forum and reasserted DRC's commitment to improving the SADC investment climate and to participating in SADC regional activities. The officials, however, acknowledged that despite the positive impact that will be felt within the region as the investment climate improves, national interests do remain the primary focus when considering changes to the investment regime in the DRC.

The Ministry of Planning convened, in 2009, an inter-ministerial committee charged with designing and implementing reforms to the business climate, In response to the penetrating

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<sup>4</sup> Perspective provided at:

<http://web.worldbank.org/WBSITE/EXTERNAL/COUNTRIES/AFRICAEXT/CONGODEMOCRATICEXTN/0,,menuPK:349476~pagePK:141132~piPK:141107~theSitePK:349466,00.html>

<sup>5</sup> Information available at: <http://www.doingbusiness.org/data/exploreeconomies/congo,-dem--rep~/protecting-investors>

<sup>6</sup> Information in this paragraph was provided in interviews with ANAPI officials, and the in the content of the investment code provided by these interviewees.

<sup>7</sup> ICSID in French is the Convocation du Centre International pour le Reglement de Differends relative aux Investissement (CIRDI).

<sup>8</sup> Information available at: <http://www.miga.org/whoware/index.cfm?stid=1789>

<sup>9</sup> Information available at: [http://www.uncitral.org/uncitral/en/uncitral\\_texts/arbitration/NYConvention\\_status.html](http://www.uncitral.org/uncitral/en/uncitral_texts/arbitration/NYConvention_status.html)

<sup>10</sup> Perspective provided by ANAPI officials interviewed.

<sup>11</sup> <http://www.anapi.org/>



and systemic challenges faced by domestic and international investors.<sup>12</sup> This initiative is managed by a steering committee (Comité de Pilotage) and funded by the World Bank. The steering committee has representation from all relevant institutions, including the Ministry of Planning, Ministry of Finance, Ministry of Commerce, Ministry of Industry, ANAPI, BCC, and the private sector. The steering committee meets regularly, and along with a technical committee, presents recommendations to an advisory committee who then presents proposed reforms to the various ministries for implementation. There is also a working unit (Cellule d'Accueil) which consists of a team of independent experts (full-time staff) who have been engaged specifically to:

- Identify the most effective and immediate reforms to be implemented
- Devise project plans to implement these reforms.

The most urgent challenges have been identified; namely:

1. Legal and regulatory frameworks do not provide appropriate and sufficient protection to investors. The DRC has, therefore, decided to gain membership to L'organisation pour l'harmonisation en Afrique du droit des affaires (OHADA) which governs business and commercial law and application within all member states. DRC has implemented a number of steps to accede to membership but has yet to deposit the instruments of ratification with the OHADA secretariat. Becoming a member of this organisation should drastically improve the strength of the protection of investors, as well as improving other aspects of the DRC's investment climate.
2. In the aftermath of years of conflict, the DRC faces serious transport, communication, electrical and water infrastructure deficiencies. Water infrastructure, in particular, requires immediate and urgent attention. These infrastructure problems pose major problems to investors. A number of specific infrastructure projects are being considered, along with appropriate partners and funding to implement these projects.
3. The DRC has a complex taxation system and payments system. A roadmap for improving the functioning and effectiveness of these is currently being considered.
4. The DRC has a reputation of investor harassment<sup>13</sup>, which causes many difficulties. A number of working sessions and awareness campaigns are being run to inform civil servants, policy and the public about the consequences arising from inconsistent dealings with investors.

Three roadmaps have been implemented since 2009 in an attempt to fast-track the reforms and improvements.

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<sup>12</sup> Information in this paragraph provided by interviewees

<sup>13</sup> The term used in French was *traceries*.

## **2.2.2. ANNEX 2: MACROECONOMIC CONVERGENCE**

Since DRC's transitional government came to power in 2003, considerable economic reforms have been implemented, for example a system of rational macroeconomic decision-making, reforms to bring hyperinflation under control, and establishing the grounding for strong growth.<sup>14</sup>

This is evidenced by inflation decreasing substantially from 46.1% in 2009, to 15.5% in 2011. The DRC government aimed to bring inflation into the single-digit range by 2010. However, this target was missed due to the effects of the global economic slowdown and rising global food and petrol prices. The revised target for 2012 is, therefore, to bring inflation to 9.9% and within the single-digit range.<sup>15</sup>

According to BCC officials interviewed, the government has made good progress in reducing the fiscal deficit. In 2010, the fiscal deficit was at 1.1% of GDP (gross domestic product), well within the FIP and RISDP (Regional Indicative Strategic Development Plan) targets. DRC has also made impressive progress in reducing the country's public debt, particularly as a beneficiary of HIPC and MIDR. DRC's public debt as a percentage of GDP was 113.5% in 2009, and has been reduced to 25% of GDP in 2011. This figure remained constant from 2010.

Prior to 2001, the DRC's monetary policy diverged substantially from international standards and conditions. From many years of budgetary ill-discipline, the economy experienced severe lack of liquidity as a result of ineffective financial instruments. This impeded on the development of the financial sector and meant that there were no facilities to offer capital or credit to finance national reconstruction or to facilitate economic activity. From 2001, a number of reforms were brought about within the BCC. With the help of international partners, the DRC was able to embark on a programme to restore monetary stability and improve the business climate, with the aim of increasing investment and economic growth.

In 2002, the BCC instituted a new Central Bank Law (Law no 005/2002) articulating the Bank's position relative to the constitution, as well as the BCC's function and organisation structure. This law stipulates that the BCC is mandated to design and implement monetary policy to achieve price stability. Prior to this law, it was difficult to evaluate the Bank's performance. However; on enactment of this Law 005/2002, the BCC is now able to measure its performance in meeting this mandate. Treasury bills were introduced in 2003, in attempt to diversify the Bank's instruments and to improve the quality of liquidity as well as to align with progressive international standards. Additionally, the BCC removed the framework instruments for direct refinancing of government operations, and put in place new short term financing instruments. From 2003 to 2008, the second phase of reforms was implemented which looked at operational and intermediary objectives. Specifically, these reforms looked at the mechanism of transmissions and the regulation of liquidity in the banking and financial industry.

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<sup>14</sup> Information available from the World Bank at:  
<http://web.worldbank.org/WBSITE/EXTERNAL/COUNTRIES/AFRICAEXT/CONGODEMOCRATICEXTN/0..menuPK:349476~pagePK:141132~piPK:141107~theSitePK:349466,00.html>

<sup>15</sup> Information regarding developments with the inflation rate provided in an interview with BCC officials.

The BCC entered the third phase of reform from 2009, where they undertook to reform the banking supervision framework and the coordination of monetary policy, by establishing a Monetary Policy Committee (MPC) – responsible for conception, execution and evaluation of monetary policy. The MPC consists of stakeholders from all institutions responsible for monetary and budgetary policy. The MPC also facilitates the exchange of information amongst the various stakeholders responsible for the monetary policy and budgetary issues, and enabled collaboration towards the ultimate goal of macroeconomic stability and encouraging growth. The establishment of the MPC has dramatically improved and deepened the systematic and evidence-based decision-making procedures within DRC macroeconomic policy-making and implementation and based on appropriate indicators and statistics.

The BCC submits data to the SADC Macroeconomic Statistical Database (SMSD) regularly and BCC representatives participate in the macroeconomic convergence subcommittee, including discussions regarding the formation of the Peer Review Panel.

### **2.2.3. ANNEX 3: COOPERATION IN TAXATION AND RELATED MATTERS**

A representative from the Director General des Impôts (DGI) (Directorate for Taxation) of the MoF was interviewed for this baseline study; however, the DGI has not been involved in any of the tax subcommittee or its working group's activities. A Double Taxation Avoidance (DTA) treaty has been signed with Zimbabwe and the country has negotiations underway with South Africa.

### **2.2.4. ANNEX 4: COOPERATION AND COORDINATION OF EXCHANGE CONTROL POLICY**

Currently, the DRC's current account and capital account have not been liberalised. The current account is close to fully liberalised, since 2003 when the DRC accepted IMF Article VIII status. The DRC have maintained the status quo of exchange controls in order to address significant monetary depreciation.

New exchange control regulations were, however, published in February 2001. In May 2001, an interbank foreign exchange market was reinstated and the foreign bureaus operating in a parallel market were re-authorised. A floating exchange rate system was also adopted in May 2001, with the BCC publishing daily exchange rates and beginning interventions in the market to smooth exchange rate volatility.

The BCC has requested assistance from the Committee of Central Bank Governors (CCBG) to help the BCC to implement the Cross-Border Foreign Exchange Transaction Reporting system, which is yet to be effected.<sup>16</sup>

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<sup>16</sup> Information in this section provided by BCC officials

## **2.2.5. ANNEX 5: HARMONISATION OF LEGAL AND OPERATIONAL FRAMEWORKS**

BCC Law is very closely aligned to SADC's Model Central Bank Law. The BCC is entirely independent and autonomous, and is mandated under the DRC's constitution to promote price stability.<sup>17</sup> According to BCC officials, the Bank's independence is provided in four principles:

- Organisational and governance structure<sup>18</sup>
- Personnel who make up the staff complement of the Bank
- Management of the Bank's budget and finances
- Implementation of monetary policy for the purposes of fulfilling its mandate

## **2.2.6. ANNEX 6: COOPERATION IN PAYMENTS, CLEARING AND SETTLEMENT SYSTEMS**

The BCC is currently engaged in implementing an immense project to establish a modernised payments system in the DRC. The primary aim of this project is to modernise and integrate the finance and banking sector in the country. The project's scope is massive since a national payments system requires supporting systems, like ICT and security infrastructure, to be upgraded and the construction of requisite data centre and disaster recovery facilities.

The project began in 2008 and is planned to be completed by the end of 2012. The project is primarily funded by the World Bank.

The DRC's national payments system is designed to ease linking into a regional SADC payment system. The payments system, therefore, will include a harmonised legal framework, harmonised card-based payment system, centralised settlement system, low-value payments framework, and a real-time gross settlements system (RTGS) platform.

The planned payment systems will enable both large and smaller cross-border transactions to operate simultaneously and in real-time. The system is also planned to integrate all modern payment system mechanisms, like the interoperability of banking cards and mobile banking.

In preparing for the implementation of the payments system, a feasibility study, a strategic vision, a conceptual framework and business specifications were all drafted for the national payments system. BCC worked with external consultants<sup>19</sup> to conduct these studies to ensure that international standard and best practice were met in all areas. This process was managed by a steering committee, comprising of a number of portfolio experts.

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<sup>17</sup> Information provided by BCC officials interviewed.

<sup>18</sup> For more information on the structure and governance arrangements of the BCC, see Section 2.2.2 above.

<sup>19</sup> Ernst and Young

DRC's banking sector currently uses the international SWIFT platform, but the implementation of the new DRC payments system will allow for the upgrade of all payments processes.

Finally, a new payments system law has been drafted and is awaiting promulgation by parliament. This law includes all the relevant clauses that will allow electronic payments to be processed, as well as articulating the relevant security measures required for the system to adhere to international standards. The following issues are explicitly dealt with in the new law:

- Definition of the Central Bank's responsibilities and duties with respect to operating, managing and overseeing the payments system
- Irrevocability and opposability of transactions executed in the system
- Recognition of multilateral clearance; and
- Recognition of mechanisms aimed at ensuring electronic payments and electronic proof of payments

## **2.2.7. ANNEX 8: COOPERATION IN THE AREA OF BANKING SUPERVISORY MATTERS**

The BCC has completed a Basel II self-assessment in order to evaluate the Bank's oversight body's compliance with the 25 fundamental principles for effective banking supervision. This process was completed in 2007, and identified a number of areas of reform necessary for full compliance to Basel II. To pre-empt any risks associated with migrating to Basel II, a supervision plan for 2012 is being implemented with assistance from the IMF and the East African Regional Technical Assistance Centre (AFRITAC).

The BCC is currently implementing the CAMELS rating system and is also in the process of adapting its Financial Soundness Indicators as per the IMF's reference manual. This work is expected to be completed by 31 December 2012.<sup>2021</sup>

In terms of compliance with the International Financial Reporting Standards (IFRS), and according to BCC officials interviewed, the BCC has established a steering committee to promote the adoption of IFRS standards among banks, credit institutions and microfinance institutions. This process began in October 2011 and is expected to be completed by 2014.

In support of the multiple reforms to banking supervision currently being implemented by the BCC, significant efforts are being made to improve the capacity of the banks staff across all areas of banking supervision.<sup>22</sup>

The Bank has also made considerable in the area of Anti-Money Laundering, including the promulgation of a law in this respect as of 19 July 2004, and establishing a committee to

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<sup>20</sup> This is a fixed deadline and, as such, is expected to be met.

<sup>21</sup> Information regarding the BCC's compliance to Basel principles was provided by BCC officials.

<sup>22</sup> Information provided by BCC officials

implement AML regulation across the DRC's banking sector. According to the BCC official interviewed, the Bank still intends to implement the requisite reforms for membership to the East and Southern African Anti-Money Laundering Group (ESAAMLG). This step, though, requires cooperation with the MoF.<sup>23</sup>

#### **2.2.8. ANNEX 9: COOPERATION IN RESPECT OF DEVELOPMENT FINANCE INSTITUTIONS**

Société Financière de Développement (SOFIDE) is the largest development finance institution (DFI) in the DRC. However, SOFIDE is currently under liquidation and so is not a member of the SADC DFI network. SOFIDE was established for large infrastructure development projects, and to manage the inflow of funds through the IMF's credit lines to the DRC. SOFIDE is currently staffed, and would benefit from being part of the SADC Development Finance Resource Centre's (DFRC) capacity building activities.

There are a few other development finance institutions none of which are functional or sufficiently capitalised.<sup>24</sup>

#### **2.2.9. ANNEX 10: COOPERATION ON NON-BANKING FINANCIAL INSTITUTIONS AND SERVICES**

Currently, the DRC has not established a regulator for non-banking financial institutions (NBFIs) operating in the DRC. Since the DRC only has one pension fund and one insurance scheme, both public, arguably there is no need for an independent regulator. Microfinance institutions are regulated by the BCC. The BCC officials would, therefore, benefit from CISNA activities relating to microfinance.

#### **2.2.10. ANNEX 11: COMMITTEE ON SADC STOCK EXCHANGES**

There is no stock exchange in the DRC. Further, there does not appear to be any discussions for the establishment of a stock exchange in the short to medium term.

## **3. CONCLUSIONS AND RECOMMENDATIONS**

### **3.1. CONCLUSIONS**

The DRC's involvement in FIP subcommittee meetings and implementation activities has been isolated to a few annexes; namely, Annex 1, Annex 2 and the Annexes reporting to the CCBG. Therefore, progress made towards the implementation of FIP commitments has largely been coincidental to other reforms currently being undertaken.

**Investment:** DRC's investment climate has suffered significantly in the aftermath of the country's years of conflict. The Congolese government are in the process of implementing a

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<sup>23</sup> Perspective provided by the BCC officials interviewed.

<sup>24</sup> Information in this section provided by BCC representatives.

number of initiatives to improve the ease of doing business in DRC (DRC ranks 176<sup>th</sup> out of 183 countries in the World Bank's *Doing Business* survey) and the strength of investor protection (the country scores 3.3 on the OECD's index for Investor Protection, well below the OECD average). The DRC has made significant progress in improving the transparency of the investment regime, and aligned with ICSID and MIGA, and are in the process of signing the New York Convention. The country has also established an IPA, ANIP, which has participated in the SADC IPA Forum.

**Macroeconomic Convergence:** The DRC has made good progress in stabilising the economy, bringing a hyperinflation environment under control, and reducing public debt through the HIPC and MDRI IMF programmes. The DRC only meets two of the three macroeconomic convergence target (with a fiscal deficit of 1.1% of GDP and public debt at 25% of GDP) , and plans to meet the single-digit inflation target for 2012.

**Taxation:** The DRC currently does not have an independent revenue authority, and has not been involved in any FIP subcommittee meetings or activities. The DRC has, however, signed a DTA with Zimbabwe.

**Exchange Controls:** The DRC has maintained exchange controls on both the current and capital accounts, in order to facilitate the stabilisation of its currency and domestic foreign exchange markets. The DRC is awaiting assistance from the CCBG in implementing a cross-border foreign exchange reporting system.

**Legal and Operational Frameworks:** According to BCC officials, the Bank's legal and operating frameworks are closely aligned to the provisions in the SADC Model Central Bank Law. This comes as a result of a number of reforms to ensure the Bank's independence and autonomy.

**Payment, Clearing and Settlement Systems:** The BCC is in the process of implementing a new, modern payments system. This project is particularly ambitious given the current state of the DRC's payments systems support infrastructure. It is planned that the new payments system will allow easy linkage into the SADC regional RTGS, once this is established. While the DRC is lagging behind the region in this aspect, the country has made impressive progress given its political and economic history.

**Banking Regulatory and Supervisory Matters:** Similar to the DRC's progress in Annex 6, the country is lagging behind the region in this area but has impressive plans in place for modernising the BCC's regulatory and supervisory frameworks. The BCC is currently working towards full compliance to Basel II, is implementing IFRS compliance for accounting and auditing, is improving BCC's supervisory staff's technical capabilities, and is working towards ESAAMLG membership.

**Development Finance Institutions:** The DRC currently has no DFI with membership to the SADC DFI Network.

**Non-banking financial institutions:** With only one pension fund and one insurance company, there is currently little need for an independent NBFIs regulator in the DRC. The DRC, therefore, does not attend CISNA meetings.

**SADC Stock Exchanges:** There is no stock exchange in the DRC, so the country is not a member of CoSSE.

## **3.2. RECOMMENDATIONS**

Firstly, DRC must ratify the FIP instrument. It is critical that this is done so that the country is bound to the commitments articulated in the protocol. Ratification will also provide all DRC FIP stakeholders with implementation authority to enact the commitments of the FIP. This should greatly improve the country's alignment to the FIP commitments.

Secondly, a suitable coordinating unit must be identified that understands the components of the FIP and has a relevant mandate that will allow the unit to have some type of authority over the processes.

Further, it is encouraged that DRC officials attend FIP meetings for the following reasons:

1. Attendance will improve officials understanding of their responsibilities under the FIP
2. Attendance will encourage information and experience sharing between DRC officials and other officials in the region, many of which were faced with similar challenges to those currently faced by the DRC
3. Attendance will provide officials in various DRC institutions with the opportunity to participate in training and capacity building activities.

It is recommended that greater effort is made to understand if any obstacles prevent DRC officials from attending subcommittee meetings (for example, cost, language barriers, lack of political commitments, etc.) and that plans are put in place to overcome these obstacles. Importantly, this third recommendation will be more effective in improving the DRC's compliance with FIP commitments if the country ratifies the FIP and establishes a FIP coordinating unit.



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## 5. APPENDICES


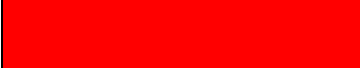

### 5.1. APPENDIX 1: LIST OF INTERVIEWS

Annex Subcommittee	Institution	Name
	Ministry of Planning	Joseph Komongo
	Ministry of Planning	Dominique Nsiala
	Ministry of Planning	Baswe Tshiwaza
	Ministry of Planning	Cissy Selenge Mananashi
	Ministry of Planning	Richard Mpia Mokutu
	Ministry of International and Regional Cooperation (NCP)	Joseph Nkoy Baumbu
Macroeconomic Convergence	Ministry of Finance	Kamwanga Masankisi Gerome
Taxation	Ministry of Finance, Director General des Impôts	Molobonzama Beta
Investment	ANAPI	BuaBua wa Kayembe Mathias
Legal and Operational Frameworks	Banque Centrale du Congo	Henri-Roger Tshibambe Kishi
Legal and Operational Frameworks	Banque Centrale du Congo	Gere Kwagaleme
	Banque Centrale du Congo	Jean Louis Kayembe wa Kayembe
Payments Systems	Banque Centrale du Congo	Kapinga Tshimanga Ngele Séraphin
Macroeconomic Convergence	Banque Centrale du Congo	Faustin Lingosa Momi
Macroeconomic Convergence	Banque Centrale du Congo	Désiré Yav Kat Muchaïl
	Banque Centrale du Congo	A. Mawakani Samba
Macroeconomic Convergence	Banque Centrale du Congo	Gerard Mutombo Mule Mule

Sixteen representatives were present at the BCC meeting – unfortunately, not all names were captured.

## 5.2. APPENDIX 2: MATRIX OF COMMITMENTS

Colour	Status
Achieved	
Partially achieved	
Not achieved	
Not assessed	
Not applicable	

Annex	Article	Indicator	Status 2011	Source	Criteria
None	None	FIP instrument ratified by all member states.		Ministry of Finance	
None	None	National FIP coordinating structures in place to facilitate better FIP implementation.		Ministry of Finance	
<b>Annex 1: Cooperation in Investment</b>	5,6,8,9,27	Existence of domestic investment law that: Protects investors, allow repatriation of profits, allows access to courts		Ministry of Finance, Ministry of Planning, ANAPI	All three present = green

Annex	Article	Indicator	Status 2011	Source	Criteria
	21	Signatory to international conventions: New York Convention		Ministry of Finance, Ministry of Planning, ANAPI	Member = green
<b>Annex 1: Cooperation in Investment</b>	21	Signatory to international conventions: ICSID		Ministry of Finance, Ministry of Planning, ANAPI	Member = green
	21	Acceded to international conventions: MIGA		Ministry of Finance, Ministry of Planning, ANAPI	Member = green
	8	Investment policies, information etc. easily accessible to investors		Ministry of Finance, Ministry of Planning, ANAPI	
	23	MS has an active IPA		Ministry of Finance, Ministry of Planning, ANAPI	
	2	Member ranked above (or equal) to OECD average rating of the Strength of Investor Protection Index	3.3	Ministry of Finance, Ministry of Planning, ANAPI	Better than or equal to OECD average = green; worse = red
	19	MS's national policies and regulations comply with the Regional Investment Policy Framework and/or the minimum principles for investment regimes in the region.	Not Assessed (not measured in 2011)	Ministry of Finance, Ministry of Planning, ANAPI	

Annex	Article	Indicator	Status 2011	Source	Criteria
	19	Regional Investment Policy Framework is drafted and agreed to by MS	No standard framework yet exists in the region.	Investment subcommittee	
<b>Annex 1: Cooperation in Investment</b>	23	Evidence of events and activities run by IPA Forum and attended by MS IPAs	The SADC IPA forum has been established, however the most recent event was poorly attended by CEOs of IPAs operating in MS	Investment subcommittee	
<b>Annex 2: Macroeconomic Convergence</b>	2,3,4	Inflation rate low and stable (< 9%)	15.5%	Ministry of Finance, BCC	Within range = green; out of range = red
	2,3,4	Public and publicly guarantee debt to GDP < 60%	25%	Ministry of Finance, BCC	Within range = green; out of range = red
	2,3,4	Budget deficit to GDP ratio at widely accepted prudent levels (< 5%)	Deficit of 1.1% of GDP	Ministry of Finance, BCC	Within range = green; out of range = red
	5,8	Cooperation/Information Sharing: submission of data to SMSD		Ministry of Finance, BCC	
	7	Cooperation/Information Sharing: participation in peer review panel	N/A	Ministry of Finance, BCC	

Annex	Article	Indicator	Status 2011	Source	Criteria
	7	The Peer Review Mechanism is approved for establishment and operational	Discussions towards establishment of the mechanism are on-going. Framework and guidelines have not yet been adopted. Generally, MS are supportive of the Peer Review Mechanism, but have specific concerns which need to be addressed at subcommittee level.	Macroeconomic Convergence subcommittee	
<b>Annex 3: Cooperation in Taxation Matters</b>	5.3	Number of DTAs signed with other SADC member states	1: Zimbabwe	Director General des Impôts (DGI) at the Ministry of Finance	< = 6 red, 7 - 10 orange, 11 - 14 green
	2	Up to date and publicly available tax database (national)		Director General des Impôts (DGI) at the Ministry of Finance	
	2	Up to date information submitted to SADC Tax Database (when fully operational)	N/A	Director General des Impôts (DGI) at the Ministry of Finance	
	6..6	Signatory to the Mutual Agreement for Information Exchange with member states (AATM)	N/A	Director General des Impôts (DGI) at the Ministry of Finance	
	6	Harmonised to the regional guidelines for the administration of Indirect Taxes	N/A	Director General des Impôts (DGI) at the Ministry of Finance	

Annex	Article	Indicator	Status 2011	Source	Criteria
	4	Harmonised to the regional tax incentives guidelines	N/A	Director General des Impôts (DGI) at the Ministry of Finance	
	3	Tax officials participate in capacity building activities		Director General des Impôts (DGI) at the Ministry of Finance	
	5	Existence of Model Double Taxation Avoidance Agreement	Model DTAA and Commentary approved and adopted by all member states.	Taxation subcommittee	
<b>Annex 3: Cooperation in Taxation Matters</b>	4	Guidelines for the appropriate treatment of tax incentives drafted and approved for adoption by MS.	Drafting of guideline documents still in progress.	Taxation subcommittee	
	4	A Fiscal Model for cost benefit analysis developed and approved by Ministers of Finance. Fiscal Model must comply with items articulated in Art. 4 section 5.	Cost Benefit Analysis model not yet developed.	Taxation subcommittee	
	6	SADC Agreement for Assistance in Tax Matters (AATM) approved and signed by all member states (multi-lateral agreement).	Finalised in 2008, waiting for approval by Ministers of Justice/Attorneys General awaiting clearance and signature by Summit.	Taxation subcommittee	
	6	Guideline for the administration of indirect tax in the region is approved for adoption by member states.	Still under review by the Indirect Taxation working group.	Taxation subcommittee	

Annex	Article	Indicator	Status 2011	Source	Criteria
	7	Mechanism for the Settlement of Tax Disputes developed and approved by Ministers of Finance.	Has not been developed or approved for implementation	Taxation subcommittee	
<b>Annex 4: Cooperation on Exchange Control</b>	2a	Liberalised Current Account		BCC	
	2a	Liberalised Capital (Financial) Account		BCC	
	2c,3.1.c	Full Currency Convertibility	Indirectly, since the currency is dollarised.	BCC	
	2d, 3d	Collect and publicise data on foreign exchange transactions (e.g. automated cross border reporting system)		BCC	
<b>Annex 4: Cooperation on Exchange Control</b>	2a	Roadmap for exchange control liberalisation in current and capital (and financial) account transactions is drafted and approved	The roadmap has been drafted by the subcommittee. All countries except the DRC have signed and approved the roadmap, and so it has not been implemented as yet.	BCC	
<b>Annex 5: Harmonisation of Legal and Operational Frameworks</b>	3b	Autonomy/independence of Central Bank		BCC	
	2	Compliant with SADC Central Bank Model Law (when/if made binding)	N/A	BCC	
	4.2	Adoption of price stability as mandate		BCC	
	3c	Ability of Central Bank to set own budget		BCC	



Annex	Article	Indicator	Status 2011	Source	Criteria
	2e	Extent to which central bank can lend to government	No	BCC	
	3	Existence of Model Central Bank Law	The Model Central Bank Law has been drafted and approved by all SADC member states	BCC	
	2	Roadmap for the establishment of a Common Central Bank developed and approved.	Legal & Operational Committee has recently been tasked with the development of a roadmap for the establishment of a single Central Bank. No progress yet on this matter.	BCC	
<b>Annex 6: Cooperation on Payments Systems</b>	3a	Payments systems in place domestically		BCC	
	3c, 3e, 4.1.c	Risk mitigation strategy implemented	Drafted	BCC	
	4.1.d	Existence of national payments system law	Drafted	BCC	
	2	National payment system law aligned to regional model law	N/A	BCC	
	2, 3d	MS linked to SADC regional payments systems (when operational)	N/A	BCC	
	2	Model Payment System Law developed and approved		BCC	

Annex	Article	Indicator	Status 2011	Source	Criteria
	3	Model Payment System Strategy is developed.	This is not in place yet. However, the strategy is being developed for the CMA countries to be piloted in this sub-regional bloc. The intention that this will allow a 'tried and tested' strategy to be rolled out to the rest of the region	BCC	
<b>Annex 7: Cooperation in the area of ICT</b>	3, 4	Legal framework for data privacy in place	Not Assessed (not measured in 2011)	BCC	To enable cross border business based on ICT taking in account that all business are supported by ICT platform
	3	Standard regarding ICT systems interpretability in place	Not Assessed (not measured in 2011)	BCC	Promote cross border business specifically for Payment Systems
	3.5	IT Governance framework adopted for the region.	Not Assessed (not measured in 2011)	BCC	
	3	ICT communication Infrastructure to connect member states in place	Not Assessed (not measured in 2011)	BCC	

Annex	Article	Indicator	Status 2011	Source	Criteria
<b>Annex 8: Cooperation in Banking and Regulatory Supervision</b>	2	Compliant with the 25 BASEL core principles	Basel II currently being implemented	BCC	Less than 20 = red; 21 to 25 orange; 25 green
	2	Self-assessment audit happening on annual basis		BCC	
	Annex 14	Membership of ESAAMLG & completion of a mutual evaluation		BCC	
	Annex 13	Compliant with international standards for auditing and accounting - IFRS		BCC	
<b>Annex 8: Cooperation in Banking and Regulatory Supervision</b>	2, 4	Regional agreement on framework for central bank supervision.	Harmonisation of banking supervision and regulatory principles in progress.		
<b>Annex 9: Cooperation on Development Finance Institutions</b>	3, 9	Participate in regional development projects through cooperation in pooling of funds, project identification, project management.	N/A		
	3f, 7	Attending capacity building activities organised by DFRC (secondment, work placement, training)	N/A		
	Annex 1	PPP: Establishment of PPP Policy Framework, Legal Framework, Institution Framework	Not Assessed (not measured in 2011)		
	2	The DFI network and DFRC are established and active.	Yes.		

Annex	Article	Indicator	Status 2011	Source	Criteria
	11	Regional Insurance Guarantee system in place and approved.	The Regional Insurance Guarantee scheme has not been agreed upon or implemented.		
	3	Number of regional development projects in progress (where regional refers to projects with benefits to more than one country, or with more than one country collaborating on a project)	Only evidence of regional projects is DBSA projects, which are not necessarily attributable to the DFI network. No collaboration between DFIs on regional development projects.		
<b>Annex 10: Cooperation on Non-Banking Financial Institutions and Services</b>	7	Membership of IOSCO (harmonising to international standards)			
	7	Membership of IOPS (harmonising to international standards)			
	7	Membership of IAIS (harmonising to international standards)			
	3, 4, 5	Committed to information sharing (Multi-lateral agreement signed by all CISNA members)			N.B. except Seychelles who has not yet participated in CISNA
	10	Participating in capacity building activities			

Annex	Article	Indicator	Status 2011	Source	Criteria
	9	Alignment to SADC regulatory framework for Non-Banking Financial Institutions (when drafted and approved)	Not Assessed		
	9	SADC regulatory framework for non-banking financial institutions established and approved for the region	SADC Framework is not yet developed. But progress has been made in that member states' NBFIs authorities have been tasked with drafting the various components of the framework.		
<b>Annex 11: Cooperation in SADC Stock Exchanges</b>	2	Cooperation: Member of COSSE	N/A		
	2	Cooperation: Information Exchange	N/A		
	2.3	Participate in capacity building activities (either attend or host)	N/A		
		MS harmonised to SADC common principles.	Not Assessed (not measured in 2011)		
	2.5	MS who are completing the minimum standards for surveillance and risk assessment.	Not Assessed (not measured in 2011)		
	2.7	Extent of diversification of the registered market participants on MS stock exchange (% individuals, % trusts, % corporates)	Not Assessed (not measured in 2011)		

