

## **FRAME Webinar**

*The Costs of Mining: Artisanal vs. commercial and global policy with local impact*

29 February 2012

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# **U.S. Dodd-Frank Wall Street Reform and Consumer Protection Act (2010)**

Extractive Industries Disclosure Provision



CONSERVATION  
INTERNATIONAL



  
AFRICAN WILDLIFE FOUNDATION®

The Nature  
Conservancy   
Protecting nature. Preserving life.®



WORLD  
RESOURCES  
INSTITUTE



the Jane Goodall Institute



ABCG is a **group of conservation organizations** working together towards the vision of an African continent where natural resources and biodiversity are securely conserved in balance with sustained human livelihoods.

Africa Biodiversity Collaborative Group

# Biodiversity Analysis & Technical Support (BATS)

**A multi-partner USAID Bureau for Africa effort including:**

- Chemonics International, International Resources Group (IRG) and Development Alternatives International (DAI)
- Environmental Law Institute
- USDA Forest Service International Programs
- Africa Biodiversity Collaborative Group (ABCG)

**BATS key issues:**

- Country-level 118/119 assessments
- Forest and biodiversity conservation in states vulnerable to crisis, in crisis, or emerging from crisis
- **Collaborating with extractive industries to reduce environmental impacts**
- Reviewing USAID/Africa's conservation history, lessons learned, and way forward
- Anticipating emerging issues and their impact on biodiversity conservation

# Mining in DRC

## *ABCG* *Focus*



- Identification and mapping of areas of overlapping biodiversity importance and mineral wealth
- Review of DRC national legislation on mining and biodiversity conservation
- Artisanal and Small Scale Mining review in DRC Protected Areas & Critical Ecosystems
- **Assessment of impact of Section 1504 of the US Dodd-Frank Wall Street Reform and Consumer Protection Act on mining companies in DRC**
- Case studies around Kahuzi-Biega National Park, Itombwe Nature Reserve and the Ituri Landscape



# Wall Street Reform Act

“...each **resource extraction issuer** to include in an **annual report** of the resource extraction issuer information relating to **any payment** made by the resource extraction issuer, a subsidiary of the resource extraction issuer, or an entity under the control of the resource extraction issuer **to a foreign government** of the Federal Government for the purpose of the commercial development of **oil, natural gas, or minerals...**”

# What the Law Requires

## 4 BASICS

- Applies to companies that submit annual reports to SEC
- Disclosure of type & total amount of payments made for each project and to each government
- Payments include taxes, royalties, license fees, bonuses and production entitlements; other payments may be included
- Information will be available for free to the public on SEC website

# SEC Rule-Making



- Final SEC rules were due by April 2011; companies have 1 FY to comply
- Multiple interpretation issues:
  - Definitions of “project,” “control,” “subsidiary,” etc.
  - Payment categories
  - Companies covered
- Multiple opportunities for submitting public comments
- NGOs and industry engaged

# SEC List of Companies

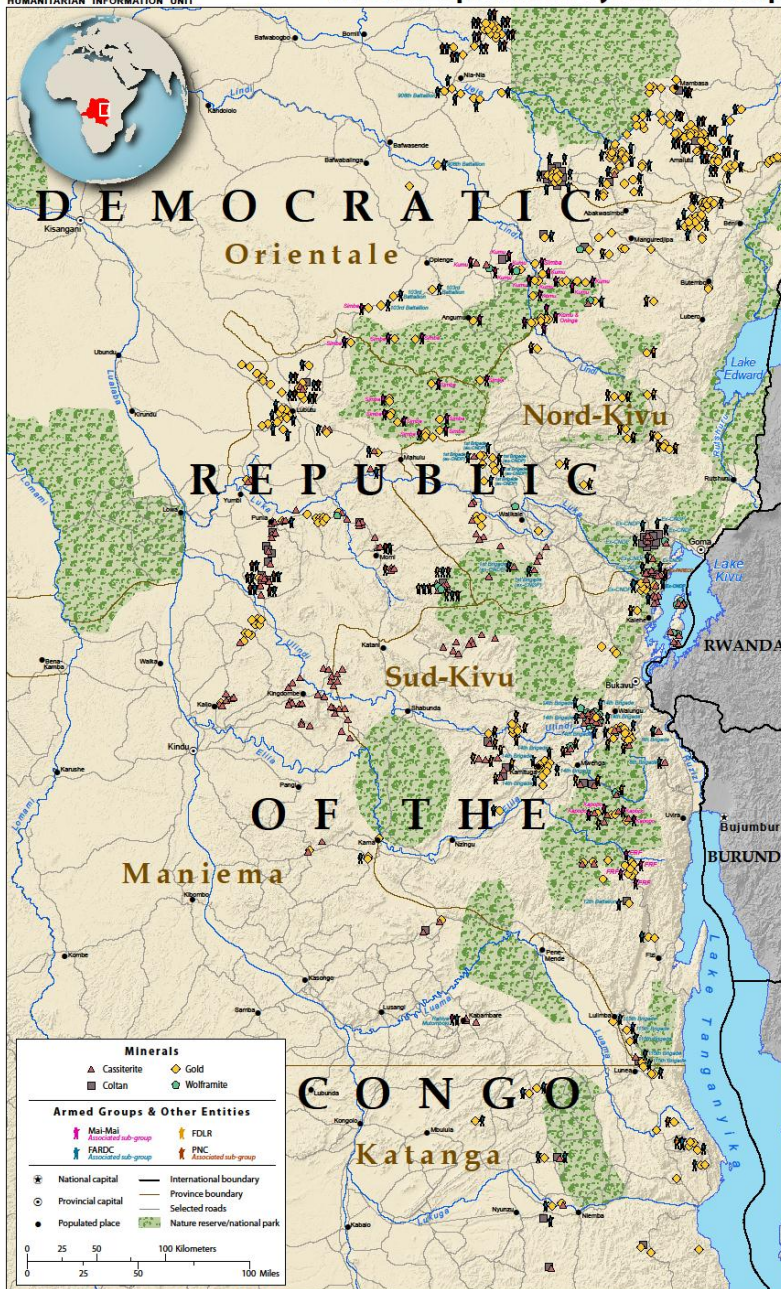
- 
- An aerial photograph of an open-pit mine. The mine is a large, irregularly shaped excavation in a hillside, filled with muddy water. Several workers are visible throughout the site, some standing on the earthen walls and others in the water. The surrounding landscape is green and hilly. The text 'SEC List of Companies' is overlaid at the top in a green box, and a list of statistics is overlaid at the bottom in a white box.
- 90% of world's largest international oil companies
  - 8 of world's 10 largest mining companies
  - Large companies engaged in all aspects of sector

# Some Critical Issues for DRC

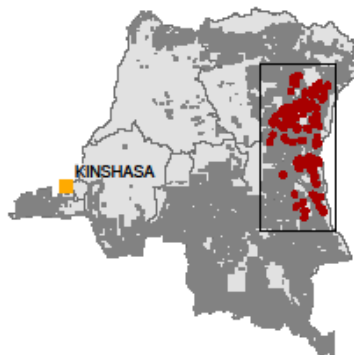


- Which types of activities qualify as “significant actions” in mining sector?
- Will all companies that trade as ADRs be required to report payments?
- Will subsidiaries that submit annual reports have to comply if controlling company do not?
- Will regulations allow for exemptions from filing certain reports and from making certain disclosures?

# Democratic Republic of the Congo Mineral Exploitation by Armed Group

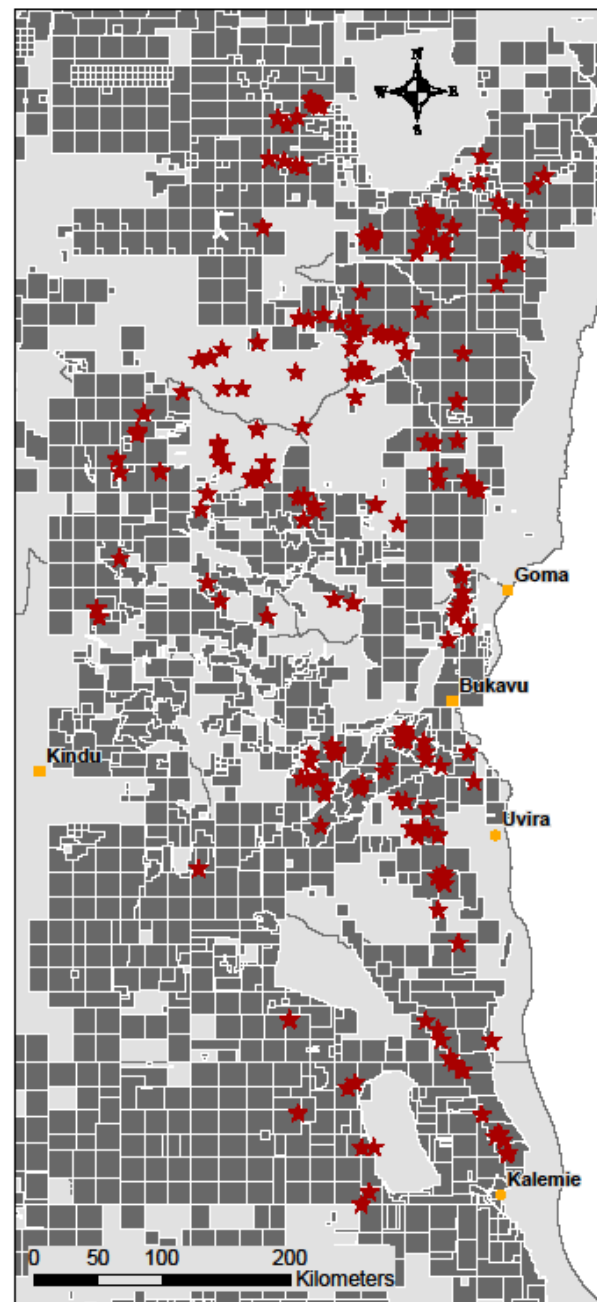


## DRC draft conflict areas versus permits



### Legend

- Capitale
- Chef lieu de Province
- Chef lieu de District
- ★ Armed group
- Mining concession January 2011
- Province



# Democratic Republic of Congo: Mining Permits on Conserved Priority Area

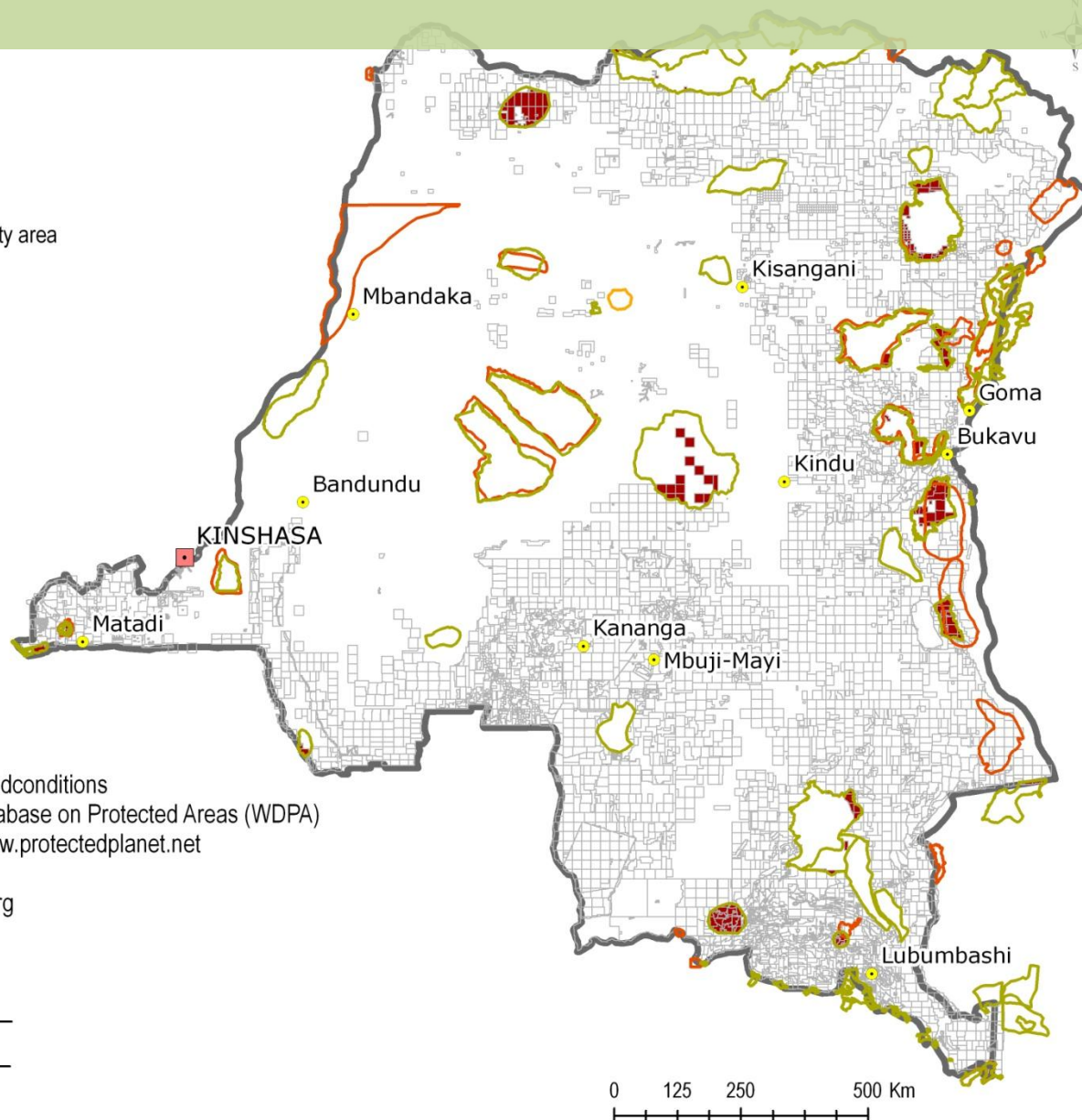
## What Does this Mean for DRC?

### Mining permit

-  Mining permit
-  Mining permit located in a conserved priority area

### Conservation Priority Area

-  World Database on Protected Area
-  Key Biodiversity Area
-  Alliance for Zero Extinction Sites



### Sources:

- WDPA: <http://www.protectedplanet.net/termsandconditions>
- IUCN and UNEP-WCMC (2010), The World Database on Protected Areas (WDPA) Cambridge, UK: UNEP- WCMC. Available at: [www.protectedplanet.net](http://www.protectedplanet.net)
- KBA: BirdLife International
- AZE: AZE Update, 2010, [www.zeroextinction.org](http://www.zeroextinction.org)
- Towns: DIAF, WRI, 2010
- Mining permits: Ministry of Mines, DRC, 2011
- Towns: DIAF, WRI, 2010

October 2011

# Mining concessions overlapping with conservation priority areas

**4,164 Concessions in 2011**

**867 Companies**

<b>Total # of companies with titles overlapping with a PA, KBA or AZE*</b>	<b>236</b>	<b>100%</b>
Individuals	53	22%
Unknown companies (excluding individuals)	89	38%
Companies partially or totally owned by a company found on an Xchange place (incl. subsidiaries of)	31	13%

PA = Protected Areas

KBA = Kea Biodiversity Areas

AZE = Alliance for Zero Extinction Areas

# Companies publicly owned

**11 companies** with overlapping titles with a PA, KBA or AZE are partially or totally owned by an entity required to submit an **Annual Report to the SEC**

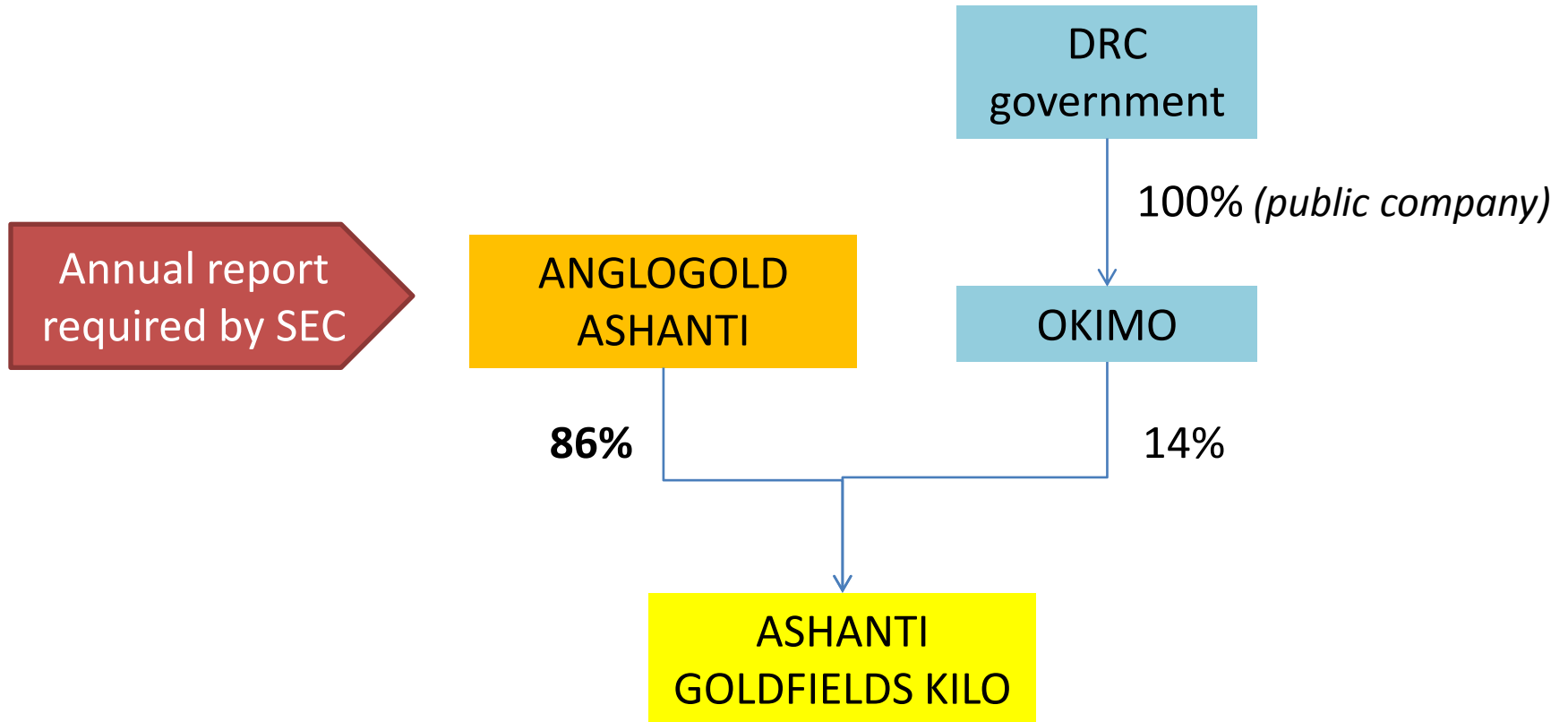
## Wholly owned subsidiaries of companies required to submit AR to SEC

ASHANTI GOLDFIELDS KILO  
BANRO CONGO MINING Sarl  
BHP BILLITON WORLD EXPLORATION  
GISOR  
SHAMIKA CONGO KALEHE  
TENKE FUNGURUME MINING  
Twangiza Mining

## Uncertain cases

SAKIMA  
PHELPS DODGE CONGO  
MIDAMINES Sprl  
LONCOR RESOURCES CONGO Sprl

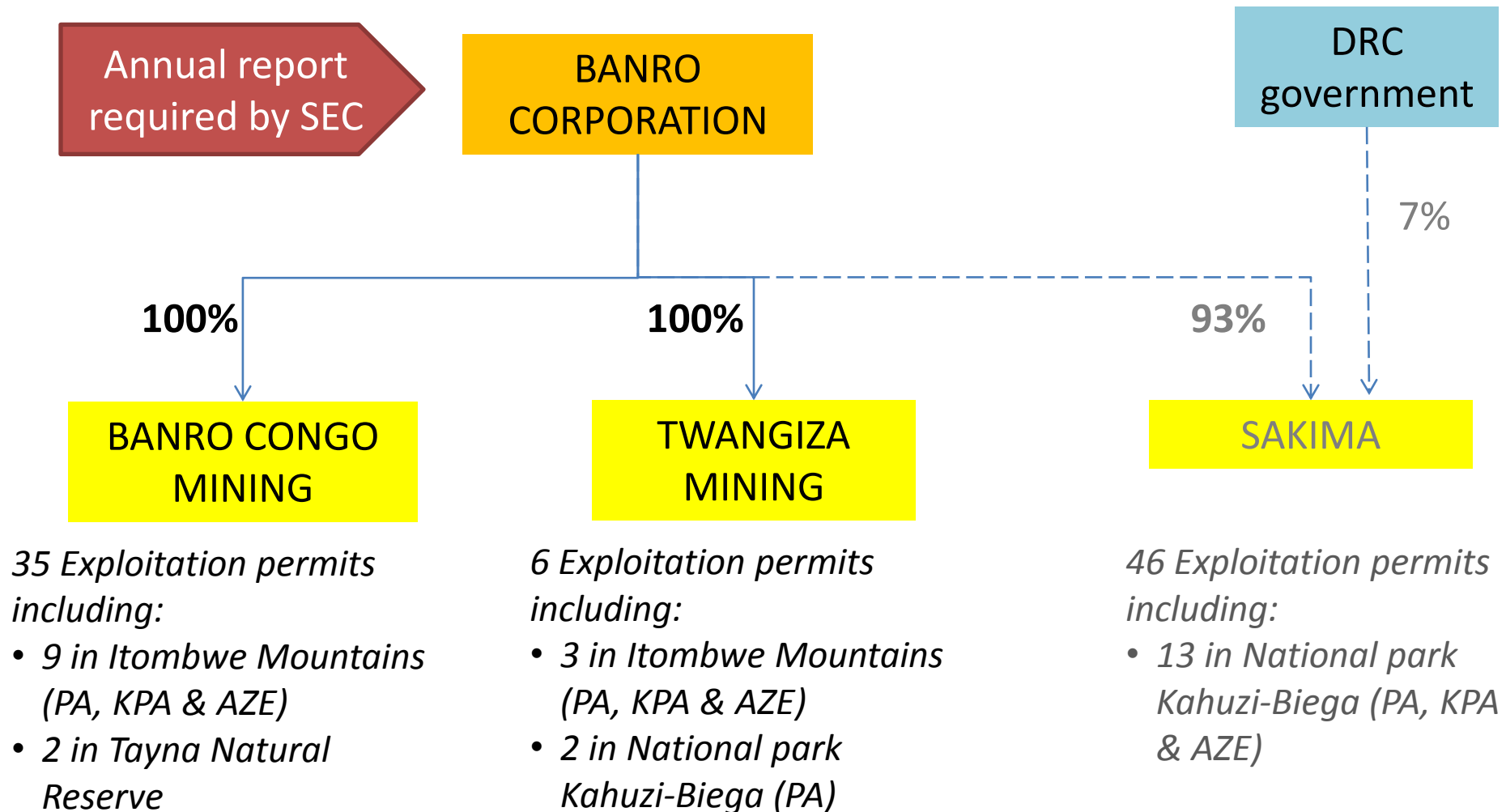
# Example #1: Ashanti GoldFields Kilo



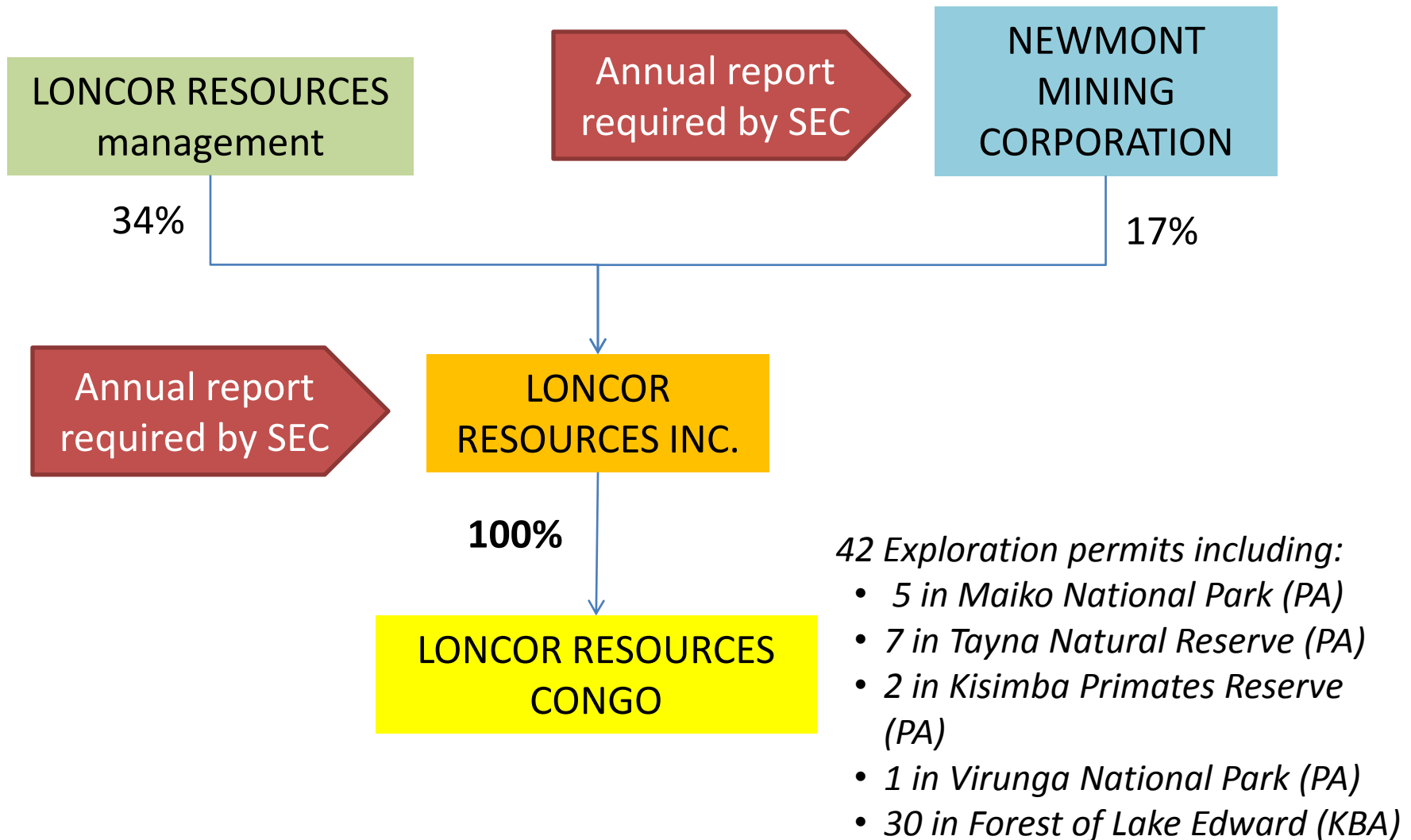
*18 Exploitation permits including:*

- *5 on Lendu Plateau (KPA)*

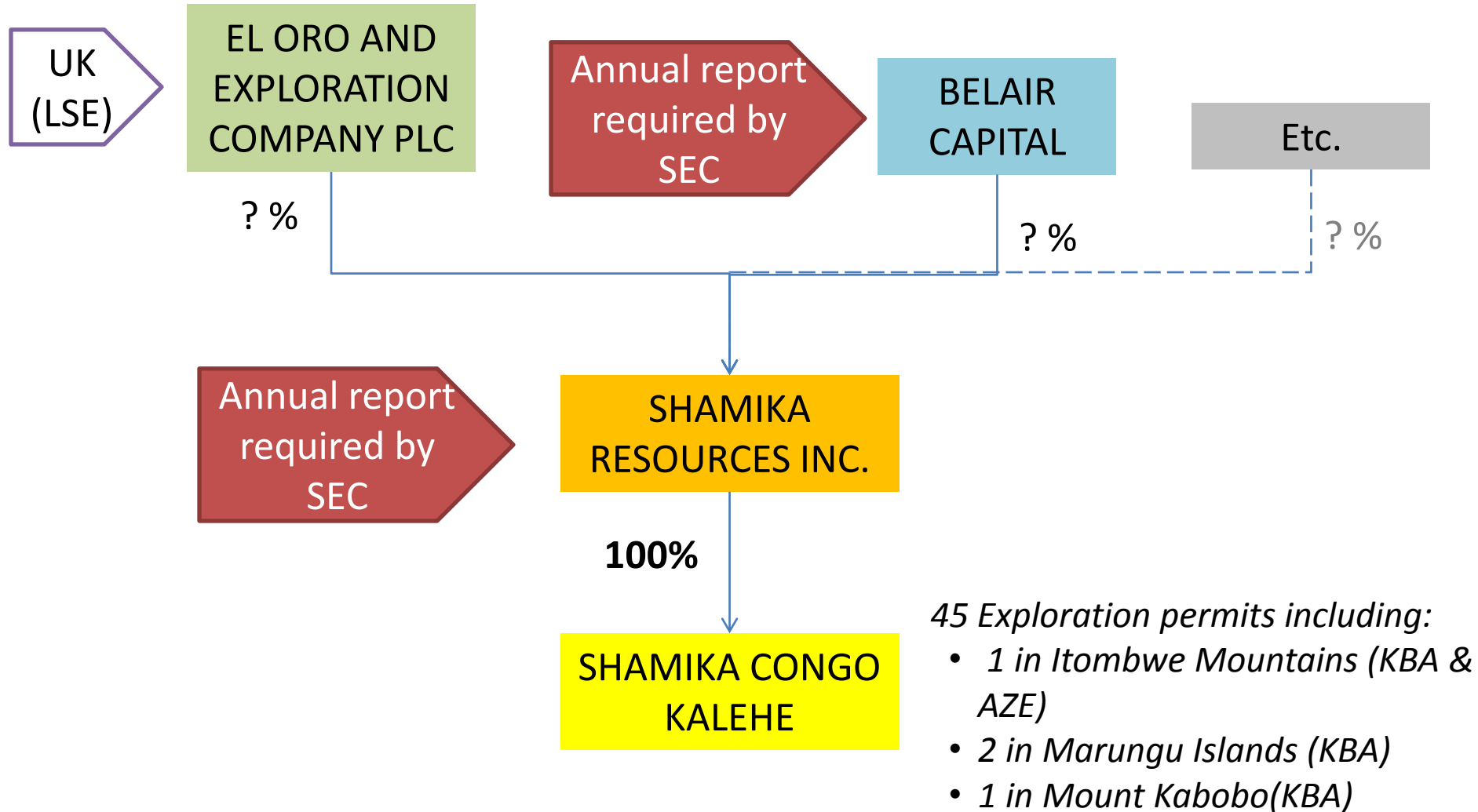
# Example #2: Banro & subsidiaries



# Example #3: Loncor and its shareholders



# Example #4: Shamika and investors



# Potential for expansion

	Canada	UK	Australia	South Africa	China
<b>Companies registered in other countries</b>	14	5	5	2	2

Potential TSX-LSE Merger

European Commission developing counterpart legislation in Europe

Campaign organized by civil-society organizations (June 2011)



- Influence SEC rule-making to ensure broad application
- Conduct further research on companies with large titles on biologically-rich areas
- Encourage government to award licenses to SEC-listed companies
- Encourage other countries to pass similar legislation (UK)
- Train DRC NGOs on US law and build capacity on accessing and using SEC reports

## Next Steps