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The Third Opening: Minerals, Security and the Limits of the US–DRC Bargain

10 November 2026

Washington offered security support in exchange for preferential access to the Congo's minerals. Ten months into a bargain struck in a difficult geopolitical setting, Congolese copper is already reaching American warehouses. The slower work of stabilising the east and building durable political support in Kinshasa is still under way, and the agreement's growing entanglement in the debate over the presidency and the constitution could become its greatest vulnerability.

Democratic Republic of the Congo · Minerals and security

Cover image: illustrative, not a specific site



Contents

01	In Brief	3
02	The Bargain and the Record It Inherits	5
03	Security: What Washington Offered and What It Delivered	8
04	Minerals: What Has Actually Moved	12
05	From Business Deal to Attempted Constitutional Reform	16
06	What Has Changed	20
07	Operating While the Constitution and Politics Are Unsettled	22
08	Outlook to 2028	24
09	Sources, Method and Notes	27



EXHIBIT 1

The bargain at a glance: minerals access for security

Ten months on: a real start on minerals, little yet on security, and a growing political risk.

KINSHASA OFFERED MINERALS ACCESS

Preferential access for US investors: a right of first offer on designated reserve projects, closed to China-controlled and other "non-aligned" bidders.

WASHINGTON OFFERED SECURITY

Support, not a guarantee: pressure on Rwanda and the rebels, and training it "intends" to provide; no binding defence or funding commitment.

MINERALS

Moving, early

Copper is flowing. The US imported 53,290 t of Congolese copper in July alone, more than in all of 2024.

First deliveries: 12,000 t in the US stockpile; Chemaf now American-owned.

Still to come: cobalt, lithium, new mines and refining, which take years, not months.

SECURITY

Lagging behind

The commitment is light: the security memorandum is non-binding and commits no funding.

The ground is still contested: rebels hold Goma and Bukavu; a Kabila-led front launched in October.

What works is soft power, outside the deal: US diplomacy and sanctions.

POLITICS

Rising risk

In force since 4 Dec 2025, before Parliament authorised ratification; no court has ruled on its constitutionality.

It requires no third term, but the president has invoked it in his push for constitutional change.

Next: the Senate vote on the referendum law; elections scheduled next for 2028.

BOTTOM LINE The deal is less than a year old. Its minerals half has begun to deliver; its security half is still taking shape; and the closer it is tied to the president's reform agenda, the weaker it becomes.

Sources: notes 14, 47, 49–55, 74–76 and 90; Tellurian analysis.

On 4 December 2025 Washington and Kinshasa signed three linked texts: a Congo–Rwanda peace accord, a Strategic Partnership Agreement on minerals and a security memorandum. Read together, **they form a single bargain of minerals for security**. The Congo gave the United States **first claim on a reserve of designated mining assets** and pledged to keep Chinese-controlled buyers away from them; in return it sought the one thing it could not secure alone, **American leverage to end the war in the east**.

Ten months on, the bargain has started to move metal; the rest is still taking shape. What it has delivered so far is commercial, concentrated in the copperbelt and **drawn from existing production rather than new investment**, which is about what a deal less than a year old could be expected to deliver. The US-backed Virtus Minerals has bought the cobalt producer Chemaf; the state miner Gécamines now routes its share of copper from Chinese-operated mines to American buyers; and in mid-October the first 12,000 tonnes entered Project Vault, Washington's new strategic stockpile. In July, Congolese copper made up **23.9 percent of American copper imports**. New American capital, by contrast, is still on paper. The flagship deal, a US-backed consortium's proposed purchase of 40 percent of Glencore's interests in two Congolese mines, which values the assets at about USD 9 billion, **is still a non-binding memorandum eight months on**. The joint committee that runs the agreement has published nothing since its first meeting in February.

The security half is moving more slowly. The security memorandum is **non-binding and commits no funding**, and Washington's most effective tools, soft power and financial pressure, **sit outside the minerals agreement**: sanctions on Rwanda's army and on Joseph Kabila, and the diplomacy that pushed the rebels out of Uvira. On the ground, the most visible armed support for Kinshasa has come not from the American state but from a private company run by Erik Prince, the Blackwater founder and Trump ally. In Kinshasa itself, the United States has had **no ambassador since late December 2025**. And in October, Kabila, who had criticised the minerals deal in a speech, took the leadership of a rebranded rebellion.

The political turn is among the year's most consequential developments. Parliament approved legislation authorising ratification in April and May, with no substantive debate at the final Assembly vote, and the Constitutional Court reportedly declined jurisdiction over a challenge to it in July without ruling on the merits. The agreement is being implemented and, for now, is **legally stable**; the open questions are constitutional and political. President Félix Tshisekedi has invoked the partnership in discussing constitutional change, at the same time as he pursues **a referendum process that critics fear could reset presidential term limits** before the election expected in 2028. **Nothing in the agreement requires a change to presidential term limits.** But by tying the deal to his own political future, he has given opponents a reason to question its legitimacy once he leaves office.

> **OUR ANALYSIS**
>
> The partnership is relatively strong as an instrument for denying China new assets and has begun to redirect existing supply, but it has **yet to prove itself as an instrument for delivering investment, peace or durable rights**. It has opened a real but narrow market in which two state-backed buyers compete. **Investors should treat it as an option**, exercised selectively in the copperbelt, with protections written into Congolese contracts and the east priced as a war zone. **The decisive tests for 2027 are political**: whether the referendum goes ahead, whether the 2028 election slips, and whether Washington separates the partnership from the fate of one president.



02

The Bargain and the Record It Inherits

Illustrative image

Read on its own, the minerals partnership looks like a business deal. It is in fact a security pact paid for in minerals, as Congolese officials openly acknowledge.[1] It took shape in 2025, as the AFC/M23 rebellion seized Goma and Bukavu: the crisis in the east gave Washington an opportunity to expand its access to critical minerals, a priority as Chinese influence in the region grows.

For Washington, there is a clear strategic incentive. The Congo mines **about three-quarters of the world's cobalt** and much of its copper, but **Chinese firms own most of the producing mines and refine most of the output**. First claim on the state's unallocated assets gave the United States **a way to contest that dominance without spending public money**.

For Kinshasa, the prize was security. Its army could not defeat the rebellion, and neither regional mediation nor UN peacekeeping had stopped it. **Only Washington had real leverage over Rwanda**, the rebels' main backer. The Congo could pay for that leverage in mineral rights, which it holds in abundance, and **gain a second bidder to play against Beijing** in the process.

On paper, both sides gained a great deal for very little. That is also the bargain's central flaw: **each paid in promises rather than in assets it actually controlled**.

The text of the minerals agreement makes the asymmetry plain. It took effect on signature, can be terminated only on five years' notice, settles disputes through "consultation" and states that nothing in it "commits or obligates the disbursement or allocation of funds".[2] Its centrepiece is a **Strategic Asset Reserve**: a list, chosen by the Congolese government, of licences and deposits the state still controls and has not yet allocated. Each opportunity is notified to a Joint Steering Committee of five American and five Congolese officials, which acts only by consensus. American bidders receive **the right of first offer and up to nine months without competition**, after which "aligned" investors, meaning firms not controlled from China, Russia, Iran or North Korea, may bid. The final choice "shall rest with the DRC".

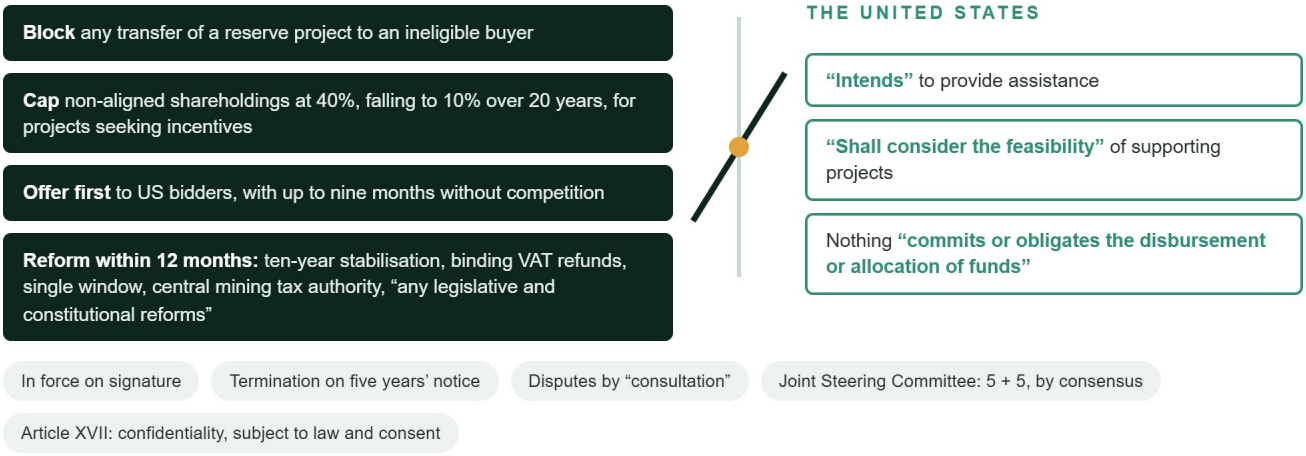
The agreement's hardest obligations run in one direction. Where a sale would transfer a reserve project to an ineligible buyer, **"the DRC shall block the change"**, and projects seeking its incentives must cap non-aligned shareholdings at 40 percent, falling to 10 percent over twenty years. The American side "intends" to provide assistance and "shall consider the feasibility" of supporting projects. In return the Congo committed, within twelve months, to a

ten-year stabilisation regime, binding VAT refunds, a single administrative window and a central tax authority for miners. It also committed to **"any legislative and constitutional reforms"** needed to align its law with the agreement, an open-ended phrase that has since acquired a political life of its own. Article XVII treats information exchanged under the agreement as **"business confidential"**, subject to applicable law and consent provisions.[2]

EXHIBIT 2

The agreement's obligations run one way

What each side is bound to under the Strategic Partnership Agreement.



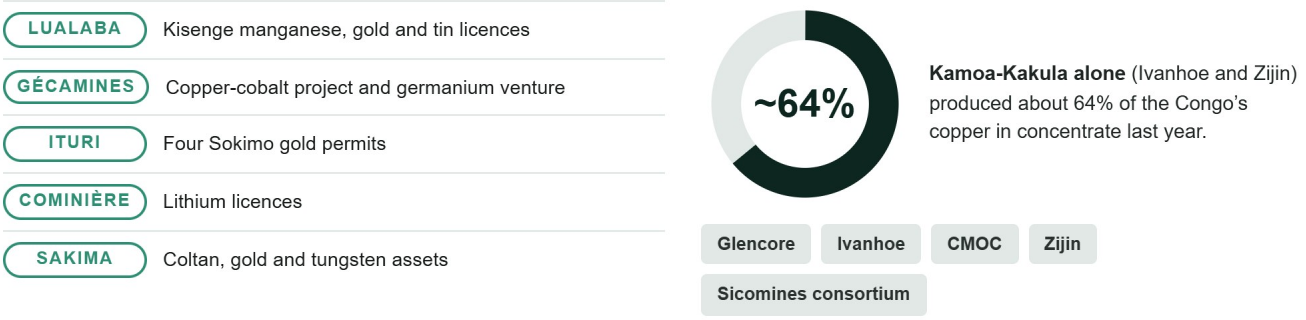
Source: Strategic Partnership Agreement, TIAS 25-1204 (note 2).

What the reserve contains confirms where the bargain points. The first list, described to Reuters by officials in January, comprised Kisenge's manganese, gold and tin licences, a Gécamines copper-cobalt project and germanium venture, four Sokimo gold permits in Ituri, Cominière's lithium licences and Sakima's coltan, gold and tungsten assets.[3] **The producing heart of the copperbelt sits outside it**, in joint ventures with Glencore, Ivanhoe and, above all, Chinese groups: CMOC, Zijin and the Sicomines consortium. Kamoa-Kakula alone, co-owned by Ivanhoe and Zijin, produced about 64 percent of the country's copper in concentrate last year.[4] **Washington has bought first claim on the state's residual estate**, and much of that estate lies in the provinces **where the state's authority is weakest**.

EXHIBIT 3

What the reserve holds, and what it leaves out

Washington has first claim on the state's residual estate, not the producing heart of the copperbelt.



Source: Reuters, 20 January 2026; S&P Global, 6 August 2026 (notes 3–4).

The Congo has opened its mines to foreign capital twice before, and **both times the announcement outran the**

delivery. The first opening followed the 2002 Mining Code and was dominated by Western companies and the intermediaries who brokered their access. **Its defining failure was a series of private sales.** Between 2010 and 2012, in opaque transactions, interests in state mining assets were sold to companies linked to Dan Gertler. The Africa Progress Panel estimated that five such transactions, involving Gécamines and other state companies, cost **at least USD 1.36 billion** in foregone revenue through underpricing; Gertler disputes the estimate.[5] **Washington's own response was inconsistent.** The Treasury sanctioned Gertler in 2017, eased those sanctions with a licence in the last week of the outgoing administration in 2021, and saw the next administration revoke the licence.[6]

The second opening began in 2008 with Chinese resource-for-infrastructure deals, which traded mining rights for promised public works, and became decisive when CMOC bought Tenke Fungurume in 2016. **Its defining failure was Sicomines.** Under the 2008 deal a Chinese consortium took 68 percent of the Sicomines copper-cobalt venture in exchange for infrastructure eventually valued at USD 3 billion. Fourteen years later the state audit office found that the venture had raised USD 4.47 billion but spent only USD 822 million on infrastructure, **about 27 percent of what had been promised**.[7,8] The Chinese partners disputed the method, but independent work by the Carter Center and Afrewatch reached a similar conclusion.[9,10] A 2024 renegotiation raised the infrastructure envelope to USD 7 billion, but **payments stop if copper falls below USD 5,200 a tonne**, so delivery still depends on the copper price.[11]

The most recent case involves Chinese and American firms alike. At Manono, the state **stripped the Australian company AVZ of a lithium permit** and divided the deposit between Zijin and the US-backed KoBold Metals. **An arbitral tribunal's orders have since put KoBold's rights in doubt.**[12]

Across these cases the partner changed, but the failure did not. At Sicomines, shortfalls carried no penalty. In the Gertler sales, disclosure was inadequate. At Manono, the rules were applied unevenly. **The one partial success points to the remedy**: Sicomines was renegotiated only because the Congolese chapter of the Extractive Industries Transparency Initiative made the shortfall public.[13] **Where outsiders could see, the state could bargain.**

> **Where outsiders could see, the state could bargain.**

EXHIBIT 4

Two earlier openings, and why they fell short

Each time, the announcement outran the delivery.

2002
FIRST OPENING
Mining Code; dominated by Western companies and intermediaries. 2010–12: five sales of state mining assets to Gertler-linked firms; at least USD 1.36bn foregone, per the Africa Progress Panel (disputed).

2008
SECOND OPENING
Chinese resource-for-infrastructure deals; decisive when CMOC bought Tenke Fungurume in 2016. Sicomines: 68% to a Chinese consortium for infrastructure.

2017–25
UNEVEN RULES
Gertler sanctioned 2017, licensed 2021, licence revoked. At Manono AVZ is stripped of a lithium permit; deposit split between Zijin and KoBold.

Dec 2025
THIRD OPENING
The US–DRC Strategic Partnership Agreement.

SICOMINES: PROMISED AGAINST SPENT ON INFRASTRUCTURE (USD)



2024 renegotiation raised the envelope to USD 7bn, but payments stop if copper falls below USD 5,200 a tonne.

Source: notes 5–12.

The sections that follow measure the agreement's first ten months against that record.



03

Security: What Washington Offered and What It Delivered

Illustrative image

The security memorandum signed alongside the minerals agreement is the clearest statement of what Kinshasa thought it was buying. It runs for five years and promises what RFI described as the largest professional military training programme in Central Africa, covering intelligence, logistics and engineering, with the protection of critical minerals among its stated aims. It is also legally non-binding. It guarantees no funding, and it makes equipment and modernisation conditional on the Congolese army's progress on professionalisation and human rights.[14] It is specific about intentions and lighter on delivery.

Even that much had to be fought for. According to Africa Intelligence, Washington's first draft made no mention of security; Congolese negotiators spent weeks winning a clause that endorsed security cooperation without specifying its extent. Kinshasa's opening offer had reportedly envisaged American bases to protect "strategic resources". It obtained instead **assistance at Washington's discretion, with no defence obligation, no deployment trigger and no basing**.[14]

What has followed is real but modest. An AFRICOM team of logistics, intelligence, training and legal specialists spent 20 to 23 January in Kinshasa assessing how cooperation could work.[15] On 26 February the American chargé d'affaires and defence attaché agreed with the defence minister to expand intelligence sharing, launch training programmes and hold joint exercises "in the coming months"; the AFRICOM commander, General Dagvin Anderson, was expected in Kinshasa the same day.[16,17] In March Washington reportedly waived child-soldier restrictions to let certain training programmes continue, as American administrations have done in all but one year since the Congo was first listed in 2010.[18,19] None of these steps has yet produced a programme on the scale the memorandum describes, and **none commits a dollar or a soldier to the defence of any mine**.

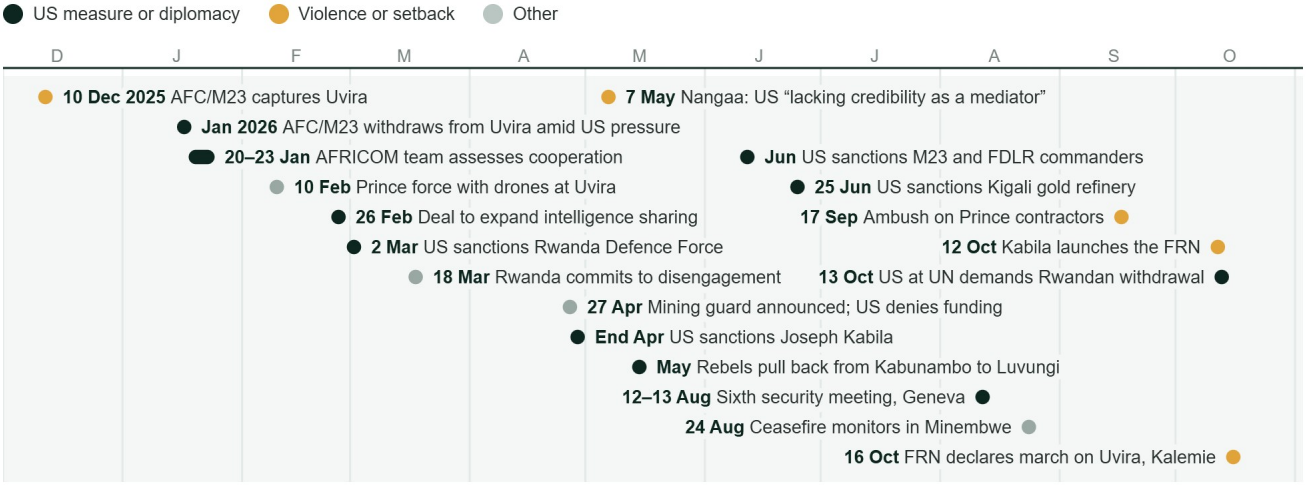
Washington's most substantive security tools have been soft power and financial pressure, outside the minerals agreement. American pressure helped secure the Washington Accords between Kinshasa and Kigali and the Doha framework with the rebels, and the threat of American retaliation **pushed the AFC/M23 out of Uvira** in January 2026, weeks after seizing it.[20,21] The Treasury sanctioned the Rwanda Defence Force in March, Joseph Kabila at the end of April, M23 and FDLR commanders in June, and a Kigali gold refinery that had received gold moved out of the Congo by the Rwandan army and the rebels.[22,23,24,25] In May the rebels pulled back from Kabunambo, 35 kilometres north of Uvira, to their earlier line at Luvungi, a withdrawal the Congolese army attributed partly to "diplomatic pressure from Washington".[26] Analysts also credit American pressure with deterring a rebel push toward Katanga, where American commercial interests are concentrated; one told African Business that any group disrupting

American mining interests "would face consequences from the US".[27] The rebels have drawn the opposite lesson about Washington's neutrality. In a letter to Secretary of State Marco Rubio on 7 May, the rebel coordinator Corneille Nangaa said the minerals deal left the United States **"lacking credibility as a mediator"**.[26]

EXHIBIT 5

Washington's substantive tools: soft power and sanctions, outside the agreement

US diplomacy, mediation and sanctions against setbacks on the ground, December 2025 to October 2026.



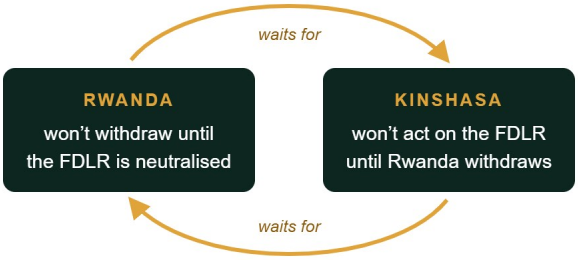
Source: notes 20–35, 47.

Results on the ground are limited. Rwanda committed in March to a scheduled disengagement, yet on 13 October the American ambassador at the UN was still demanding that it "immediately and unconditionally" withdraw its troops.[28,29] The joint security mechanism created by the Washington Accords had met six times by August, most recently at the US mission in Geneva, and was still discussing how to verify implementation on the ground.[30] Refugees International concluded in July that none of the agreement's core obligations had been adequately met: **Rwanda will not withdraw until the FDLR is neutralised, and Kinshasa will not act against the FDLR until Rwanda withdraws**.[25] On the Doha track, the government and the rebels agreed a negotiating roadmap in August and the first ceasefire monitors deployed to Minembwe on 24 August, but the rebels say the framework will not change territorial control in the short to medium term.[31,32] **About 3.8 million people remain displaced in the east.**[25]

EXHIBIT 6

The eastern deadlock

Each side conditions its move on the other's.



6	meetings of the joint mechanism by August
3.8m	people displaced in the east (July)

Source: Refugees International, July 2026; notes 25, 28–32.

Private firms have stepped in on security. In February Reuters reported that Erik Prince, the founder of Blackwater and an ally of President Trump, had sent a private force with drones to help the Congolese army secure Uvira; his men had been hired to improve the collection of mining revenue, and a Congolese security official called the deployment "in line with the minerals-for-security deal". **The State Department said it held no contracts with Prince.**[21] His company, Vectus Global, has since been reported in Kalemie and in the South Kivu highlands, where an ambush on 17 September killed or wounded about twenty of its personnel, including a former Green Beret.[33,34] In April the mines inspectorate announced a USD 100 million paramilitary mining guard, created "under strategic partnerships" with the United States and the United Arab Emirates and planned to exceed 20,000 personnel by 2028. The American

embassy replied the next day that the United States **"is not currently funding any units to patrol or guard mines in the Congo"**.[35] The Emirates have been reported to fund training and covert support for the army.[36] Kinshasa is getting the security it sought, but **largely from private firms and Gulf partners rather than Washington**. That brings speed but less accountability: these actors answer to their clients, not to American oversight.

EXHIBIT 7

Who has stepped in on security

Private firms and Gulf partners: faster support, but outside American oversight.

Private

Vectus Global (Erik Prince)

Force with drones at Uvira (Feb); reported in Kalemie and the South Kivu highlands; about 20 killed or wounded in a 17 Sep ambush.

USD 100m

Mining guard

Paramilitary force announced by the mines inspectorate, planned to exceed 20,000 by 2028. US embassy: not funding it.

UAE

United Arab Emirates

Reported to fund training and covert support for the army.

Source: notes 21, 33–36.

Washington's own footprint has thinned in diplomacy too, where a vacuum has opened. Ambassador Lucy Tamlyn's tour ended in late December 2025, and **no successor has been nominated**; the embassy has been run since 20 January by a chargé d'affaires, Ian McCary.[37] The State Department's top Africa post was filled only on 18 May, when the Senate confirmed Frank Garcia as Assistant Secretary.[38] Washington is **cutting USD 361 million from its UN peacekeeping contributions**, and MONUSCO's operational funding has fallen by 27 percent, even as an American diplomat, James Swan, was appointed to head it on 5 March and took up his duties after arriving in Kinshasa on 7 April.[25,39] **Taken together, these steps make a durable security commitment harder to signal.**

EXHIBIT 8

A diplomatic vacuum in Kinshasa

Signals that complicate a durable security commitment.

Late Dec 2025	Ambassador Tamlyn's tour ends; no successor nominated
20 Jan	Embassy run by a chargé d'affaires, Ian McCary
5 Mar	James Swan appointed MONUSCO head; arrives 7 Apr to take up duties
18 May	Assistant Secretary for Africa confirmed, Frank Garcia

–USD 361m

US cut to UN peacekeeping contributions

–27%

Fall in MONUSCO operational funding

Source: notes 25, 37–39.

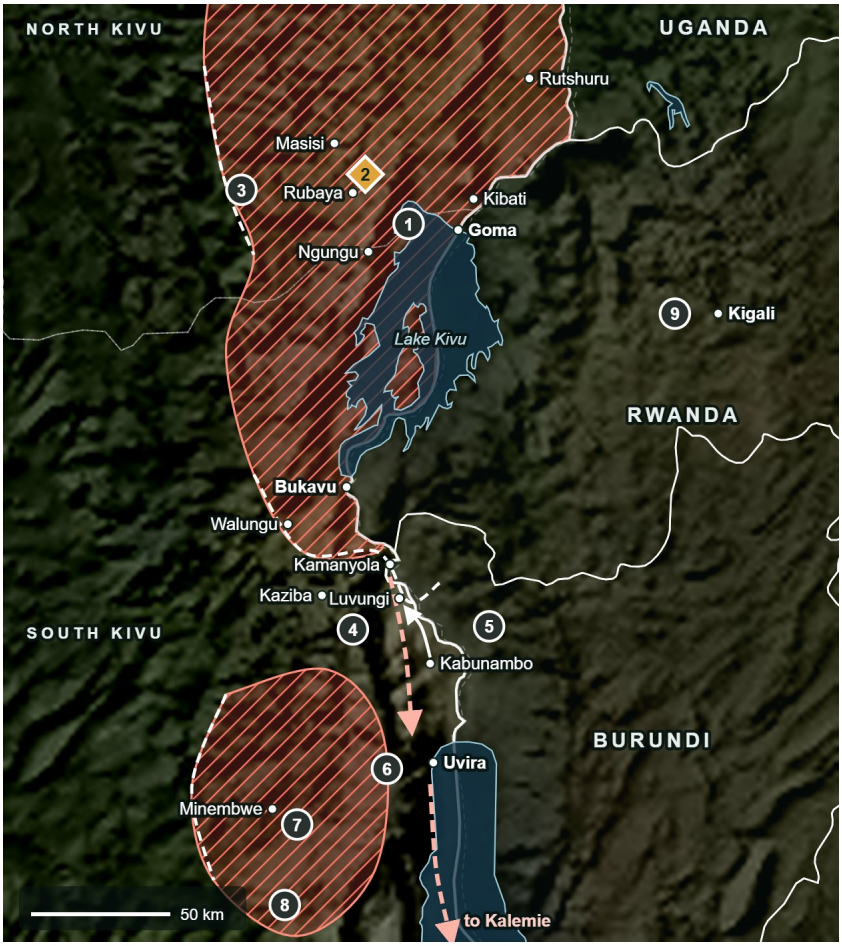
Insecurity has moved closer to the assets the partnership was meant to secure. Rubaya, which supplies roughly 15 percent of the world's tantalum feedstock and yields the rebels some USD 800,000 a month in taxes, was added to the strategic reserve in February, three weeks after a collapse there killed more than 200 people and days before a Congolese drone strike on the site killed the rebels' military spokesman.[40,41,42,43] An asset struck in the month it was offered is hard to invest in; **its inclusion reads partly as an appeal for American engagement**.[44] In Ituri, where the reserve's Sokimo gold permits lie, the ADF killed at least 43 people in a single village in April.[45] In May armed men ambushed a mineral prospecting convoy near Likasi in Haut-Katanga, killing a geologist and his driver.[46] On 12 October Kabila's camp announced in Goma that he would lead a new Front for the Refoundation of the Nation, absorbing the rebellion's leadership with Corneille Nangaa and Bertrand Bisimwa as vice-presidents and Sultani Makenga still commanding its army. The front vows to end "tyranny" by all means, and Reuters reported that **Kabila criticised the minerals deal in a speech before its launch**; four days later it announced at a rally in Kamanyola an intention to march on Uvira and then Kalemie.[47,33] The governor of Haut-Katanga moved quickly

to declare that the front has “no place” in his province.[48]

EXHIBIT 9

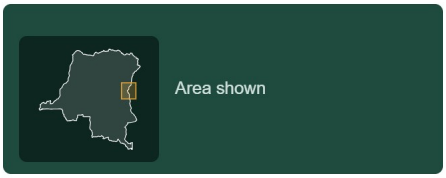
The Kivu front: where the reserve meets the war

Rebel-held ground covers Goma, Bukavu and Rubaya; the declared advance points south toward Kalemie.



1. **Goma.** Seized by AFC/M23 in 2025; on 12 Oct Kabila’s camp announces the Front for the Refoundation of the Nation (FRN) here.
2. **Rubaya (strategic reserve).** About 15% of world tantalum feedstock; about USD 800,000 a month in rebel taxes. Collapse kills 200+ (Jan); added to the reserve (Feb); drone strike kills rebel spokesman.
3. **Masisi front (RP529: Ngungu, Kibati).** Front lines move village by village; both sides use drones.
4. **Walungu/Kaziba and Ruzizi plain.** Contested fronts south of Bukavu. 16 Oct: FRN rally at Kamanyola announces a march on Uvira, then Kalemie.
5. **Kabunambo → Luvungi.** May: rebels pull back from 35 km north of Uvira, attributed partly to US pressure.
6. **Uvira.** Seized 10 Dec 2025; abandoned in Jan 2026 under US pressure; Prince force with drones (Feb); C64 march (15 Sep).
7. **Minembwe.** First Doha ceasefire monitors deploy, 24 Aug.
8. **South Kivu highlands.** 17 Sep ambush on Prince’s Vectus Global personnel.
9. **Kigali.** US sanctions a gold refinery that received gold moved out of the Congo (25 Jun).

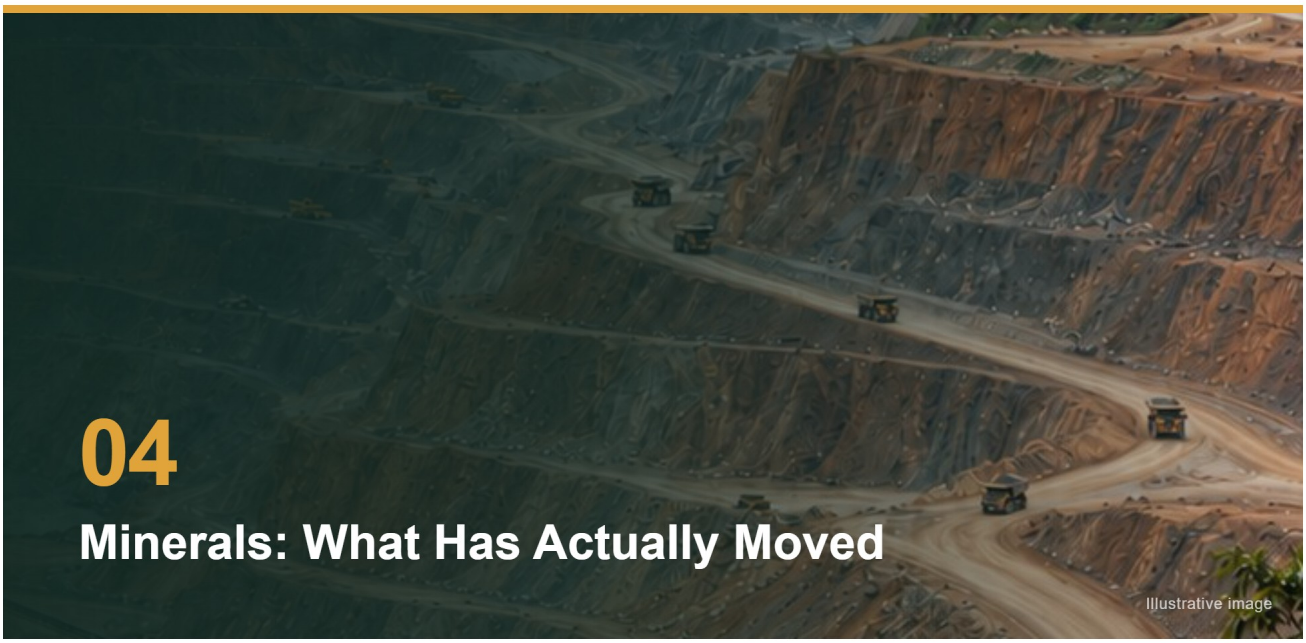
Held by AFC/M23, now FRN
Contested front
FRN declared advance



Satellite base: NASA Blue Marble with Natural Earth relief. Boundaries: Natural Earth; provinces: amCharts. Areas of control approximate (Critical Threats Project, 21 Oct 2026). Sources: notes 20–48.

The record can be read at three levels. **Tactically, American soft power has produced real effects**: Uvira was recovered, rebel expansion toward Katanga has been deterred, and sanctions have raised the cost of Rwanda’s involvement. **Operationally, the balance of forces has yet to shift.** The rebels hold Goma, Bukavu and Rubaya, the front lines in Masisi, Walungu and the Ruzizi plain move village by village, and both sides now use drones. Strategically, diplomacy and sanctions have given the United States real influence over the conflict, at little cost and without taking responsibility for its outcome. But the minerals deals still depend on security, and **security is the part of the bargain still to be delivered**.

> **Washington has gained influence over the war, but not yet an end to it. Until the Congolese state controls the ground, much of what the partnership claims will stay out of reach.**



04
Minerals: What Has Actually Moved

Illustrative image

The commercial record is better than the security record. It is measured almost entirely in copper, redirected from existing production rather than created by new American investment, but for a deal less than a year old it is a real start.

Three transactions have closed or delivered. The first is Chemaf. In 2024 Gécamines, under American pressure, blocked the sale of the distressed copper-cobalt producer to an arm of the Chinese defence group Norinco. In March 2026 the government approved its sale instead to Virtus Minerals, a young American firm, for about USD 30 million in equity and the assumption of roughly USD 900 million in debt.[49,50] **It is the first physical mining investment attributed to the partnership.** The second is copper marketing. In January Gécamines committed to ship 100,000 tonnes of copper from its 20 percent share of CMOC-operated Tenke Fungurume to the United States in 2026, with Mercuria providing finance and logistics; in April the commitment was raised to 500,000 tonnes, drawing on its stakes in Tenke Fungurume and Glencore's Kamoto Copper Company.[51,52] The third is the stockpile. Project Vault, launched at the White House on 2 February, combines a USD 10 billion Export-Import Bank loan with private capital to stockpile minerals for American manufacturers.[53] In the week of 12 October Mercuria delivered **the first 12,000 tonnes of Congolese copper** into it, with more expected soon.[54]

EXHIBIT 10

Three transactions have closed or delivered

All three redirect existing Congolese assets rather than add new capacity.

~USD 30m + 900m

Chemaf sold to Virtus Minerals

After Gécamines blocked a sale to an arm of China's Norinco in 2024. Approved March 2026; first physical mining investment attributed to the partnership.

Equity + debt assumed

100,000 → 500,000 t

Gécamines copper to the US

From its 20% of CMOC-operated Tenke Fungurume, then also its stake in Glencore's Kamoto Copper; Mercuria provides finance and logistics.

Committed Jan · raised Apr

12,000 t

Project Vault

US stockpile launched at the White House on 2 Feb with a USD 10bn Export-Import Bank loan; Mercuria delivers the first Congolese copper.

Week of 12 Oct

Source: notes 49–54.

The trade data show how much has actually moved. In July the United States imported **a record 53,290 tonnes** of Congolese copper cathode, 23.9 percent of its copper imports, against less than 32,000 tonnes in the whole of 2024;

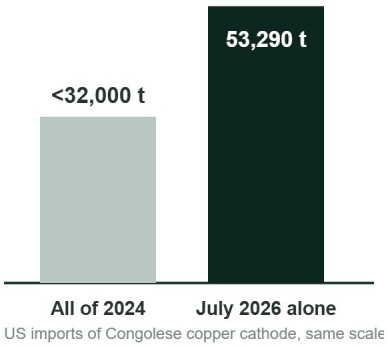
the Congo's share of China's copper imports fell the same month to 39.4 percent, its lowest since October 2025.[55] In the first half of the year Congolese copper exports reached a record 1.72 million tonnes, and the share sold to the United States and Europe roughly doubled.[56] Total imports may include copper sold outside the agreement. Mercuria reported an initial 12,000-tonne delivery to Project Vault in October; this is not a complete accounting of deliveries under Gécamines' broader US copper arrangements. **Nor have these sources reported any shipment of Congolese cobalt, lithium, germanium or gallium to American buyers under the partnership.**

This is the agreement's most concrete achievement, and a first dent in Chinese control: copper from Chinese-operated mines redirected to American buyers through the state's minority stakes. **Washington's finance has followed the trade rather than led it**: the Development Finance Corporation has invested USD 600 million in the Orion Critical Mineral Consortium and lent USD 553 million to the Lobito Atlantic Railway.[57]

EXHIBIT 11

Copper is the agreement's most concrete achievement

In one month of 2026 the US imported more Congolese copper than in all of 2024, reallocated from existing mines.

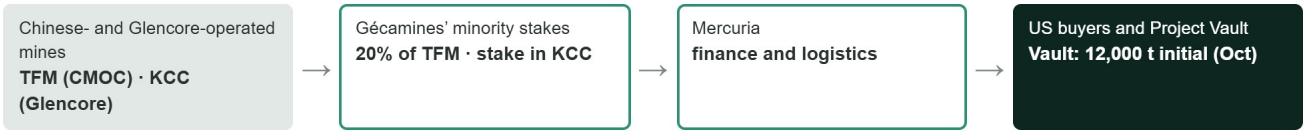


US imports of Congolese copper cathode, same scale

23.9%
of US copper imports in July came from the Congo

39.4%
Congo's share of China's copper imports in July, the lowest since Oct 2025

1.72m t
Record Congolese copper exports, first half of 2026; share to US and Europe roughly doubled



Source: Reuters, 7 and 16 September 2026 (notes 55–56).

The route the copper takes shows how provisional the shift still is. The Angolan line to the Atlantic is operating, and its USD 753 million financing, including the DFC loan, closed in June. The Congolese section through Kolwezi was conceded to Mota-Engil for 30 years in August, but its financing has not closed, with only a non-binding DFC letter of interest for up to USD 1 billion. No official completion date exists; an independent tracker expects initial operations only in 2029–2030. Until then, copper moves partly by road. **Mota-Engil is also about one-third owned by China Communications Construction Company**, while a Chinese consortium revives the rival TAZARA route east (section 06).[57] The trade has moved faster than the infrastructure meant to secure it.

What is still pending

The larger transactions remain memoranda. Talks have run since February to route up to half of Kipushi's zinc concentrate, which carries germanium and gallium, through Gécamines to American buyers.[58] On 3 February Glencore and Orion announced a non-binding memorandum for Orion to buy 40 percent of Glencore's interests in Kamoto Copper Company and Mutanda Mining, which together produced 247,800 tonnes of copper and 33,500 tonnes of cobalt in 2025, at an implied enterprise value of about USD 9 billion. Orion would direct the sale of its share of output to buyers nominated under the partnership[59]; on 2025 production, that share would be about 99,000 tonnes of copper and 13,400 tonnes of cobalt a year. **Eight months later the memorandum has not become binding, and no reason has been given.** In July the tax authority sealed Kamoto's offices in Kolwezi over a disputed claim that

sources put in the billions of dollars.[60] **The state is thus in open dispute with the asset at the centre of the deal.**

In cobalt and lithium, American supply is years away, as new processing and mining capacity always is. In May Gécamines' cobalt arm EGC signed a memorandum with EVelution Energy and Trafigura to supply a planned refinery in Arizona, but that plant is targeted for 2029.[61] In August the mining cadastre confirmed seven exploration permits for KoBold Metals, four of them in Manono, but the dispute with AVZ remains unresolved.[62] Meanwhile Zijin began production at its part of Manono in May and shipped the Congo's first lithium to China in June, through Tanzania.[63] **In lithium, the Chinese company is producing while the American one is still exploring.**

EXHIBIT 12

The copperbelt: where the deals are

The partnership's delivered assets cluster around Kolwezi, on the Lobito railway to the Atlantic.



Delivered · Pending / in reserve · Stalled or at risk · Outside the partnership · Security incident or protest

Lobito railway (DFC USD 553m)

1. **Kamoa-Kakula.** Ivanhoe and Zijin; about 64% of the Congo's copper in concentrate. Outside the reserve.
2. **Kamoto Copper (Glencore).** Offices sealed 9 Jul in a tax claim put in the billions; Orion MoU for 40% still non-binding.
3. **Chemaf.** Sold to US-backed Virtus Minerals, March 2026.
4. **Mutanda (Glencore).** Part of the non-binding Glencore–Orion memorandum.
5. **Tenke Fungurume (CMOC).** Gécamines' 20% share of copper now shipped to US buyers.
6. **Near Likasi.** May: armed men ambush a prospecting convoy, killing a geologist and his driver.
7. **Kipushi.** Talks since Feb to route up to half the zinc concentrate, carrying germanium and gallium, to US buyers.
8. **Kisenge.** Manganese, gold and tin licences in the strategic reserve.
9. **Lubumbashi.** C64 march, 15 Sep. The governor says the FRN has "no place" in Haut-Katanga.

Satellite base: NASA Blue Marble with Natural Earth relief; locations approximate. Lobito railway: DFC loan of USD 553m. Sources: notes 46–63.

Who sets the pace

Kinshasa has used its own levers, sometimes in ways that cut across American interests. An ordinance of 29 June banned exports of copper and cobalt concentrate to force processing at home.[62,4] The cobalt quota of 87,000 tonnes a year, plus a discretionary strategic reserve of 9,600 tonnes, has **cut China's imports of Congolese cobalt intermediates by about 80 percent** in the first nine months of the year, and the regulator has clawed back unused allocations.[64,65] But cobalt hydroxide prices fell 31 percent in the third quarter as Chinese buyers drew on stocks, and the regulator has floated a further cut.[66,64] **Kinshasa is managing supply for its own revenue, not for Washington's convenience.**

The institutions meant to govern all this are still finding their feet. The Joint Steering Committee met once, on 5

February at the State Department; its American members have not been named.[67,68] **No second meeting has been announced**, and by June about fifty projects sent by Kinshasa had drawn no response.[69] A Congolese task force due in February was created only on 11 September, and the committee's second meeting was still being prepared on 16 September.[70,71] **No approval or rejection of any project has been made public**; Article XVII's confidentiality is subject to applicable law and consent provisions. On the reform side, Law 26/033 on the tax regime for strategic projects was promulgated in August and the central tax authority commissioned on 9 October.[72,73]

EXHIBIT 13

How a reserve project is meant to move, and where it has stopped

No approval or rejection of any project has been made public.

1. Reserve list	2. Notified to the committee	3. US right of first offer	4. "Aligned" bidders	5. Final choice
Chosen by Kinshasa **Unpublished**	5 US + 5 Congolese, by consensus **Met once, 5 Feb**	Up to nine months without competition **~50 projects sent; no reply by June**	Not controlled from China, Russia, Iran or North Korea **No awards published**	"Shall rest with the DRC" **Confidentiality subject to applicable law and consent provisions**

TASK FORCE due in February, created 11 Sep

REFORM Law 26/033 promulgated Aug; central tax authority commissioned 9 Oct

NO SECOND MEETING announced

Source: notes 2, 67–73.

Across the agreement, the pattern is consistent. It does well where the Congo can comply by passing a law: the tax reform is public and applies to all state partnerships, not only American ones. **It is weaker where compliance depends on sustained behaviour over many years**, which is where Sicomines fell short. **The American commitments are the least specific**: they name no sum, deadline or delivery mechanism. **The repair would be cheap**: publish the reserve, the awards and the incentive terms, and penalise non-delivery. **That neither government has yet done so suggests both still value flexibility over firm commitments.**

EXHIBIT 14

Deal tracker: delivered, pending and stalled

Trade has moved; large investment has not yet.

■ Delivered / in force ☐ Pending / non-binding ■ Stalled or at risk

DELIVERED		PENDING / NON-BINDING		STALLED OR AT RISK	
DFC finance Orion CMC · Lobito railway	**USD 600m + 553m**	**Glencore–Orion** 40% of KCC and Mutanda; MoU since 3 Feb	**~USD 9bn**	**Mining guard** US denies funding, 28 Apr	**USD 100m**
Gécamines–Mercuria copper Pledged; raised Apr	**500,000 t**	**Joint Steering Committee** 5 Feb; ~50 projects sent	**Met once**	**Kamoto tax dispute** 9 Jul; Glencore disputes	**Offices sealed**
Virtus buys Chemaf Approved Mar	**~USD 30m + 900m debt**	**Kipushi zinc** In talks since Feb	**Up to 50%**	**Security memorandum** Unfunded; no programme	**Non-binding**
Reform law Aug · tax authority 9 Oct	**Law 26/033**	**EGC–EVelution–Trafigura** Cobalt MoU, 13 May	**Refinery 2029 target**	**Rubaya** In the reserve	**Rebel-held**
Project Vault Week of 12 Oct	**12,000 t**	**KoBold Metals** 4 in Manono; AVZ dispute	**7 permits**		

No project approval or rejection under the agreement has been made public. Sources: notes 49–63.



05

From Business Deal to Attempted Constitutional Reform

Illustrative image

Whatever its commercial record, the partnership's durability will be decided at home. It is in force, being implemented and, for now, legally stable.[2] Parliament authorised ratification after it took effect, the Constitutional Court reportedly declined jurisdiction over a challenge without ruling on the merits, and no further challenge was identified in the sources reviewed.[74,75,76] The open question is therefore constitutional rather than legal: the merits have never been tested, and the president's constitutional project could bring them back into view.

Legally, the agreement is hard to undo: termination requires five years' notice, and no court has ruled against it.[2] **Politically, it is exposed**, having been drawn into the debate over extending President Tshisekedi's tenure, although it does not require a third term.[77,78] The more closely it is tied to that project, the narrower its domestic base.

OPERATING STATUS	CONSTITUTIONAL REVIEW	ORDINARY TERMINATION
Being implemented	**No merits judgment identified in this review**	**Five years after written notice**

Where the agreement stands legally

The main legal question raised so far is one of sequence. The agreement took effect on signature on 4 December 2025, months before Parliament authorised ratification (Exhibit 15). Article 214 requires such authorisation for trade agreements and for agreements affecting legislation or public finances.[79] Its commercial commitments and pledge of legal reform therefore raise a real authorisation question, even though Article XVI(2) says it does not itself oblige either party to allocate or disburse funds.[2,80] The state was bound before Parliament gave the authorisation the Constitution appears to require.

Parliament's later approval strengthens the agreement's footing, but it is not a court ruling. It permits ratification; it does not establish that the earlier entry into force was valid, or that every provision is constitutional.[81] The Assembly's 371–1 vote, taken without substantive debate, signals political acquiescence more than legal scrutiny.

Nor did the court challenge settle it. ACP reported that the Constitutional Court declined jurisdiction over the petition in July 2026, leaving the merits undecided.[82,76] That neither validates the agreement nor guarantees that another claimant could reopen the case, which would need a valid legal route, an eligible claimant and a reviewable act.[79] The petitioners' sovereignty arguments are untested, and the text gives them less support than their framing suggests:

Article 9 allows concessions regulated by law, and the Joint Steering Committee can block decisions only within its remit: it has no general veto over Congolese assets.[2]

The legal position is stable for now: the agreement operates as binding, and no further challenge was identified in the sources reviewed. What remains is a constitutional question rather than a live legal one. The merits have never been tested, and a change of constitution or of government could reopen them, which is why the constitutional project matters.

EXHIBIT 15

How the agreement reached its current position

Parliament authorised ratification after the agreement took effect; no merits judgment has been identified.

DATE	STEP	EVIDENCE
4 Dec 2025	Signed; in force on signature	**Official record**
21 Jan 2026	Constitutional challenge filed	Reported
7 Mar 2026	Authorisation bills submitted	**Official record**
13 Apr 2026	Assembly declares bills admissible (346–7, 2 abstentions)	Reported
27 Apr 2026	Assembly approves authorisation (371–1)	Reported
19 May 2026	Senate approves authorisation	Reported
Jul 2026	Jurisdiction declined, according to ACP	Reported

The reported dismissal did not decide the constitutional merits.

Evidence note: This assessment draws on the agreement, the Constitution and available public records and reporting. The full ratification and publication records, including Law No. 26/008 of 22 May 2026, and the complete judgment in R.Const.2611 were not authenticated in this review. The reported jurisdictional dismissal does not establish the agreement's constitutional merits.

Sources: notes 2, 74–76, 81–84. The court case is registered as R.Const.2611.

How the constitutional project affects the agreement

The agreement does touch the Constitution, but not on presidential terms. Its reform clause commits Kinshasa to the legislative and constitutional reforms needed for implementation, without saying which.[2] The points of contact are those set out above: how the agreement was authorised under Article 214, and how its arrangements for mineral assets sit with the state's control of natural resources and the concession rules of Article 9.[79] None concerns the number or length of presidential terms.

The link to tenure is the president's own. Tshisekedi has invoked the partnership in discussing constitutional reform, and by August Dan Ford of Responsible Statecraft was describing him as claiming that the deal required him to stay in office. The argument rests on the open-ended reform clause: if the partnership needs constitutional change, and only a new constitution could reopen the rules on presidential terms, then implementing the deal and deciding who leads the country become one project. Ford rejects that premise, and Christian-Géraud Neema of the Carnegie Endowment argues that fiscal and mining-law changes would be enough.[77,78]

The link offers the president three things. It recasts a term extension as a matter of delivering the country's most important foreign partnership rather than of personal tenure. It borrows Washington's standing, since an American partner that does not object can be presented as one that approves. And it raises the cost of opposition, by making resistance to the constitutional project look like resistance to the investment and security the deal promises. Neema warns that the president is **"implicating Washington" in his pursuit of a third term**, and that Washington has not clearly pushed back.[77] That silence is not consent, but it allows the agreement to be enlisted in the president's cause.

Presidential terms remain constitutionally protected. Tshisekedi's second and final term began on 20 January 2024; the next election is expected in 2028 and the term ordinarily ends in January 2029.[85] Article 220 shields the number and length of presidential terms from revision, and Article 70, which keeps an outgoing president in office until a successor takes over, confers no further term.[79] Supporters of change argue that a replacement constitution adopted by referendum would fall outside Article 220, a contested claim (Exhibit 16).

EXHIBIT 16

What the Constitution protects

ARTICLE 220
Protects the number and duration of presidential terms against constitutional revision.

ARTICLE 219
Restricts revision during war, emergency, siege and other specified circumstances.

THE DISPUTE
Whether a replacement constitution can lawfully bypass those safeguards. The minerals agreement does not answer that question.

Source: Constitution of the DRC (note 79).

The legal groundwork for a referendum is still being laid. A referendum bill passed both chambers in June; reporting described it as providing for experts convened by the president, then a constituent assembly and a referendum.[86,87] On 28 July the Constitutional Court found it compliant, subject to reservations of interpretation.[88] After Tshisekedi requested a further deliberation, the Assembly sent the text back to committee in September and adopted a revised version on 23 October by 346 votes to none, with one abstention, in the opposition's absence; it now returns to the Senate.[89,90] None of this changes the Constitution or resets presidential terms, but it builds the machinery for an attempt.

The war could delay the timetable. Article 219 restricts constitutional revision during war, a state of emergency or siege.[79] On 6 May Tshisekedi said elections might not be possible in 2028 if the war continued, and that he would accept a third term if the people wanted one.[91] Joshua Walker of Chatham House reports that both camps tacitly expect a delay.[92] The war cuts both ways: it may hold back constitutional change but also justify postponing the vote.

Opposition to the president's plans is not a single position (Exhibit 17). Moïse Katumbi supports the Washington Accords but opposes extending presidential tenure; the C64 coalition's protests targeted constitutional change; and Kabila criticised the minerals agreement before launching a politico-military coalition.[93,94,95,47] A national dialogue, which the government has accepted, may draw some of it in, though Chatham House notes it is unclear whether the two sides can agree on what the country's problems are.[92]

EXHIBIT 17

Opposition positions are not interchangeable

Katumbi / Ensemble pour la République
Supports the Washington Accords and opposes extending presidential tenure. His support for the Accords should not be read as endorsement of every provision of the partnership.

C64 coalition
Its demonstrations of 3 June and 15 September targeted constitutional change. They do not by themselves establish the coalition's position on the partnership.

Kabila and the FRN
Reuters reported that Kabila criticised the minerals agreement in a speech preceding the launch of the FRN, a politico-military coalition, on 12 October.

Sources: notes 47, 77, 92–95.

The political risk to the agreement is one of ownership. Its legal survival does not depend on the referendum; its legitimacy does. Chatham House notes that the United States is seen to be backing Tshisekedi, and the Institute for Security Studies warns that lost democratic credibility would undercut diplomatic gains and strengthen M23's demands for autonomy in the east.[92,86] If the partnership becomes part of the president's case for staying in office, opponents

and successors will have reason to treat it as his commitment rather than the state's.

What it means for investors

A change of government in either country would not by itself end the agreement. International law generally bars a state from invoking its internal law to excuse non-performance, and limits invalidity claims based on defects in treaty-making procedure.[96,97] An executive agreement can bind the United States internationally without Senate consent,[98] and withdrawal takes effect only five years after notice.[2]

The main risk is disruption to implementation and to individual projects, growing the more the partnership is seen as the president's rather than the state's (Exhibit 19). A contested term extension could weaken acceptance of it; a successor could treat it as a predecessor's commitment to review or renegotiate; Washington could cut discretionary support. None requires termination. Investors should track implementing laws, approvals, fiscal treatment and project protections (section 07) against the milestones in Exhibit 18.

EXHIBIT 18

The milestones that could change implementation

TRACK	RELEVANT MILESTONE	WHY IT MATTERS
Agreement implementation	Twelve-month reform deadline: 4 December 2026	Check which reforms are enacted and how they affect projects. Non-compliance does not automatically terminate the agreement.
Constitutional process	Promulgation or further steps on the revised referendum law	Distinguish legislation governing a referendum from an actual constitutional change or term reset.
Political succession	Expected 2028 election; ordinary succession horizon January 2029	Watch policy continuity, renegotiation pressure and project decisions.

Sources: notes 2, 85, 88–90.

EXHIBIT 19

Political change can disrupt projects without cancelling the agreement

Scenario analysis, not verified future events.

Contested extension of presidential tenure
Weaker legitimacy and implementation disruption

Political succession
Policy review or pressure to renegotiate

US policy change
Reduced discretionary support or notice of termination

Outcomes depend on applicable law and project-specific rights. Ordinary unilateral termination under the agreement takes effect five years after written notice.

Source: Tellurian analysis; agreement text (note 2). Mutual agreement or another applicable legal basis could change the termination analysis; no such basis has been established here.

In short, the agreement is legally stable for now; the risk that matters is constitutional and political.



06
What Has Changed

Illustrative image

Ten months on, the agreement has moved the needle in some places and not yet in others, and the distinction runs across three levels of effect.

EXHIBIT 20

What has changed, at three levels

Real at the tactical level, early at the operational, mixed at the strategic.

Tactical

REAL AND MEASURABLE

- Copper flows to American buyers and the stockpile
- Chemaf American-owned, not Norinco
- Committee, task force, tax authority and a new tax law
- Uvira recovered; higher cost to Rwanda

Operational

EARLY STAGE

- No new American-financed mine at scale
- Largest transaction still a memorandum
- Chinese plants process about 79% of the world's cobalt; first US refinery targeted for 2029
- No visible committee approvals; no security programme

Strategic

MIXED AND CONTESTED

- US seat at the table; non-aligned bidders barred from designated reserve projects
- US prestige tied to a government that invokes the deal in its constitutional case
- US diplomatic presence in Kinshasa weaker

Source: Tellurian analysis; notes 61, 70, 99–102.

Tactically, the changes are real, measurable and quick. Copper that used to flow to Chinese buyers now reaches American ones, and some of it sits in an American stockpile. A Chinese defence group was blocked from buying Chemaf and an American firm owns it instead. Kinshasa has created a committee, a task force, a central tax authority and a new tax law. In the east, American pressure recovered Uvira and has raised the cost of Rwandan involvement. For an agreement less than a year old, that is a respectable start.

Operationally, change has barely begun, as it rarely could in ten months. No new American-financed mine has yet been built or bought at scale, and the largest deal is still a memorandum. New mines can take a decade or more to develop and refineries several years, so the test at this stage is direction, and the first steps, a supply deal for an Arizona refinery and a Lobito rail concession, point the right way. **Refining is still Chinese**: Chinese plants process about 79 percent of the world's cobalt, and the first American cobalt refinery is targeted for 2029.[99,61] From 1 January 2027, Executive Order 14415 tightens waiver conditions under existing defence-procurement restrictions on covered materials such as tantalum and tungsten; specified exceptions remain available. That favours non-Chinese

supply, including from the rebel-held east, **just as it becomes less accessible**.[100] Washington has hedged here too: in September it facilitated a tungsten deal with Rwanda itself, the "peace for business" approach the Egmont Institute had warned was not enough.[101,102] The joint committee has not visibly approved anything, and the security memorandum has not produced a programme.

Strategically, the effects are mixed, but on minerals they are moving in Washington's direction. Judged against Washington's evident aims, to loosen China's hold on Congolese minerals, to secure supply for American industry and to stabilise the region enough for both to last, the record is uneven. **The first aim has begun to advance**: non-aligned bidders are now barred from designated reserve projects, Chemaf went to an American buyer and a growing share of Congolese copper now goes west, though China's existing position is largely intact. **The second has advanced in copper and nowhere else**: Congolese metal supplied almost a quarter of American copper imports in July, but no shipments of cobalt, lithium or germanium have been reported. **The third has advanced least**: Uvira was recovered, but the rebels still hold Goma, Bukavu and Rubaya, and a Kabila-led front threatens Kalemie. What Washington has secured is a seat at the table of the world's most important cobalt and copper producer, **a real gain at modest fiscal cost**. But it has also **tied American prestige to a government that invokes the partnership in its case for constitutional change**, while Washington's diplomatic presence in Kinshasa has weakened.

For Beijing, the losses so far are marginal, though the trend is not in its favour. Chinese firms still own most of the producing mines, run most of the processing and buy most of the output, and the reserve holds mostly residual assets. Their counter-moves have been commercial rather than confrontational. In March the Congo signed a new mining cooperation agreement with China covering geological data sharing, investment protection and local processing.[103] China granted Africa zero-tariff access from 1 May, although the Congo already had duty-free access as a least-developed country, and a Chinese consortium won a USD 1.4 billion concession to revive the TAZARA railway, a rival to Lobito.[104,57] **The sharpest blow to Chinese supply has come from Kinshasa's own cobalt quotas, not from the American agreement. China does not need to outbid Washington. It need only outlast it.**

> **China does not need to outbid Washington. It need only outlast it.**

For Kinshasa, the agreement has done what it was partly designed to do: **it has turned a China-dominated market into a competition**. **The Congo is running an auction, not choosing a side.** In February its mines minister said the country would look elsewhere if the American framework produced no projects; a month later it signed the cooperation agreement with Beijing.[105,103] The cost of that leverage is that the agreement has become an instrument of domestic politics as well as foreign policy, and **it has been drawn into the dispute over presidential tenure**, with Kabila among its public critics.

EXHIBIT 21

Gains and costs for each capital

How Washington, Beijing and Kinshasa stand ten months into the agreement.

Washington

+ Seat at the table of the world's most important cobalt and copper producer, at modest fiscal cost

− Prestige tied to the constitutional project; weaker presence in Kinshasa

Beijing

+ Still owns most producing mines, runs most processing, buys most output

+ New cooperation agreement (Mar); USD 1.4bn TAZARA concession, a rival to Lobito

− Losses marginal; the sharpest blow came from Congolese cobalt quotas

Kinshasa

+ A China-dominated market turned into a competition: "running an auction, not choosing a side"

− The agreement is now an instrument of domestic politics, drawn into the dispute over presidential tenure

Source: notes 57, 103–105.



07

Operating While the Constitution and Politics Are Unsettled

Illustrative image

For a company already in the Congo, or deciding whether to enter, the practical consequence is clear. The agreement is legally stable for now, but its constitutional merits are untested and its standing could be revisited by a new constitution or a future government, so positions must be built to survive every outcome. That means **treating the treaty as a door-opener and placing the real protection elsewhere.**

EXHIBIT 22

Six ways to protect a position

Treat the treaty as a door-opener and place the real protection elsewhere.

1

Make the contract carry the weight

A mining convention with Law 26/033 stabilisation written in where eligible; keep your own documentary record.

2

Secure a forum outside the Congo

An arbitration clause and a holding structure that qualifies for treaty protection; the 1984 BIT is a backstop.

3

Insure early, against the quiet scenario

Test DFC, MIGA or private cover against delays, audits and reopened tax claims. Violence premiums rose 5–10× in 2025.

4

Stage capital

Commit in tranches tied to the reform deadline, the electoral calendar, committee approvals and binding US deals; offtake before equity.

5

Use transparency and breadth

Public terms and payments; ties to provinces, communities and the opposition; neutrality on the constitutional debate.

6

Price the security risk

No capital in rebel-held territory; due diligence on tin, tantalum, tungsten and gold; caution with private contractors.

Source: Tellurian analysis; notes 106–108.

The first priority is to **make the project's own contract carry the weight**. Every position should rest on a mining convention under the Mining Code, with the ten-year stabilisation under Law 26/033, where the project is eligible, written into the convention itself rather than assumed from the treaty. Because Article XVII protects information exchanged under the agreement, subject to applicable law and consent provisions, companies acquiring reserve assets should hold their own documentary record: the notification, the state's acceptance, partner consents from Gécamines or other state companies, and registration with the mining cadastre. If the agreement is ever challenged, **that file, not the committee's minutes, will be the evidence**.

The second is to **secure a forum outside the Congo**. The agreement itself offers only “consultation”. The 1984 US–Congo bilateral investment treaty, in force since 1989, does provide for international arbitration, and investors have used it against Kinshasa before.[106] CSIS has described it as largely ineffective in practice, so it is **a backstop rather than a shield**.[107] An arbitration clause in the convention itself, and a holding structure that clearly qualifies for treaty protection, are worth more.

The third is to **insure early, and against the quiet scenario rather than the dramatic one**. Political risk cover from the Development Finance Corporation, the World Bank’s MIGA or the private market should be tested against a successor government that delays transfers, audits incentives and reopens tax claims without formally expropriating anything. **The Kamoto tax dispute shows the pattern.** Political violence premiums in the Congo **rose five-to tenfold** during the 2025 offensive.[108]

The fourth is to **stage capital**, committing in tranches tied to observable milestones: the reform deadline, the referendum and electoral calendar, whether the joint committee starts approving projects, and whether Washington’s flagship transactions become binding. Rights of first offer are cheap to hold and expensive to exercise prematurely. Offtake and stockpile arrangements of the kind Mercuria and Gécamines have used are **a lower-risk entry than equity**, because they depend on the state’s existing stakes rather than on new titles. Logistics plans should assume road transport for part of the route until the Lobito line’s Congolese section is financed and built.

The fifth is to **make transparency and political breadth a form of protection**. Contracts whose terms and payments are public are harder for a successor government to reopen or portray as spoils of the current presidency, and relationships with provincial authorities, host communities and the opposition matter as much as access to the presidency. **Companies should stay publicly neutral on the constitutional debate.**

The sixth applies to security. **Companies should commit no capital to assets in rebel-held territory** and should apply full due diligence to tin, tantalum, tungsten and gold that might originate there, screening counterparties against American sanctions designations that now reach Rwanda’s own gold trade and the Kabila front’s leadership. They should be **wary of relying on private military contractors or on the proposed mining guard**, whose funding and chain of command are unclear and whose casualties and conduct could become the company’s problem. In the copperbelt, security planning should assume the rising criminal and political risk documented this year rather than the relative calm of the past.

Lenders and insurers should apply the same discipline, **underwriting the project contract rather than the treaty**, while buyers from Europe, Japan, the Gulf and India can partner with American firms to **take second place in the queue**.



08
Outlook to 2028

Illustrative image

The calendar for the next eighteen months is unusually dense, and it runs on two tracks (Exhibit 23). The political track, from the American midterms and the Senate's vote on the referendum law to the 4 December reform deadline and the preparations for 2028, will test the bargain's foundations. The commercial track will show whether the deal can grow beyond redirected copper: Gécamines' 500,000-tonne pledge, a second committee meeting, the first open tenders and the financing of Lobito's Congolese section.

EXHIBIT 23

The next eighteen months: dates and decisions to watch

The political track tests the bargain's foundations; the commercial track shows whether it can grow beyond redirected copper.

POLITICS AND SECURITY

3 Nov 2026	**US midterms.** Does Africa policy keep Washington's attention?
Pending	**Senate vote on the re-adopted referendum law.** Then watch promulgation, an expert commission and a referendum date.
4 Dec 2026	**First anniversary; 12-month reform deadline.** Which "constitutional" reforms does the presidency say the deal needs?
Any time	**A US ambassador nominated?** Post vacant since late Dec 2025.
Any time	**Kabila front moves on Uvira, then Kalemie.** And any attack on sites or convoys in Haut-Katanga or Lualaba.
2027	**National dialogue; electoral preparations.** AU, Doha and Washington tracks on the war.
2028 – Jan 2029	**Election expected; term ends.** Any postponement is the clearest political warning.

MINERALS AND MONEY

Ongoing	**Gécamines' 500,000-tonne pledge.** Beyond the initial 12,000 t into Project Vault; timetable unconfirmed.
Next meeting	**Joint committee's second meeting.** First approvals? A published reserve list or awards?
1 Jan 2027	**US defence waiver rules tighten.** Tighter waiver conditions for restricted defence materials take effect; exceptions remain.
From ~Mar 2027	**First rights of first offer could lapse.** If the ~50 projects sent by June started the nine-month clock, open tenders to "aligned" bidders should follow.
~Apr 2027	**Lobito lender round due to close.** Financing for the Congolese section; no official completion date.
By mid-2027	**A binding US transaction?** Glencore–Orion signed or lapsed; Kamoto tax dispute; Kipushi offtake.
2027–2029	**Cobalt quota and processing.** A further quota cut has been floated; first US cobalt refinery targeted for 2029.

Red dates mark the clearest warning signs. Source: Tellurian analysis; notes 2, 51–57, 59–61, 64, 67–71, 90, 100.

Several developments would tell us the bargain is deteriorating. **The clearest red indicator would be the promulgation of the referendum law** followed by the appointment of an expert commission and a referendum date, because that would turn the agreement's political exposure into a timetable. **A formal postponement of the 2028 election**, or an agreed transition that keeps Tshisekedi in office, would have the same effect. **Continued American silence on term limits** while Kinshasa cites the partnership against them would confirm, in Congolese eyes, that Washington has chosen a side. In the east, watch for a Kabila-front offensive toward Uvira or Kalemie, defections to the front and attacks on copperbelt sites or convoys; commercially, for the Glencore–Orion memorandum lapsing, the Kamoto dispute escalating, no second committee meeting, **no binding American transaction by mid-2027** and no ambassador. A new legal challenge to the agreement or to its implementing measures would be the clearest legal warning.

Positive signals would look different. The most important would be **a public American statement that the partnership requires no change to term limits**, which would cost Washington little and separate the agreement from the fate of one president. **A published reserve list and the publication of awards** would show that the agreement can be verified. A binding Glencore–Orion transaction, or another sizeable American equity investment in the copperbelt, would show that capital is following trade. A Senate-confirmed ambassador in Kinshasa and a funded training programme under the security memorandum would show that the security commitment is real. And **a verified Rwandan withdrawal** that returns even part of the eastern mining belt to state control would change the bargain's foundations.

EXHIBIT 24

Signposts to watch

The indicators will reveal the agreement's direction before its own institutions do.

	DETERIORATING	IMPROVING
Politics	Referendum law promulgated, expert commission named, referendum date set; 2028 election postponed or a transition keeps Tshisekedi in office; US silence on term limits	A public US statement that the partnership requires no change to term limits
The east	Kabila-front offensive toward Uvira or Kalemie; defections from the army or Katangese politics; attacks on mining sites or convoys in Haut-Katanga and Lualaba	A verified Rwandan withdrawal returning part of the eastern mining belt to state control
Commerce	Glencore–Orion lapses or Kamoto dispute escalates; no second committee meeting; no binding US deal by mid-2027; no ambassador nominated	A published reserve list and awards; a binding Glencore–Orion deal or another sizeable US equity investment; a confirmed ambassador and a funded training programme
Law	A new legal challenge to the agreement or to its implementing measures	—

Source: Tellurian analysis.

The most likely path for 2027 lies between the two. Copper will continue to flow to American buyers through Gécamines' stakes and the stockpile, and some cobalt may follow, because both governments benefit and neither needs new law to make it happen. The larger transactions will advance on the slower timescale of mining investment, held back by tax disputes, the war and the political calendar. **The referendum process will remain the central political risk**, and the agreement will remain entangled in it unless Washington chooses to say otherwise.

Our judgement rests on four conditions the agreement needs in order to work (Exhibit 25): a Kinshasa that wants deals to outlast it, a state that controls the ground, buyers that keep wanting the minerals and a Washington that stays engaged. **Of these, control of the ground and American commitment are decisive. If either gives way, so does the bargain.**

EXHIBIT 25

Four conditions the bargain needs

Control of the ground and American commitment are decisive. If either gives way, so does the bargain.

Fragile	Failing	Holding	Uncertain
Kinshasa wants deals that outlast it	**The state controls the ground ★**	**Buyers keep wanting the minerals**	**Washington stays engaged ★**
The constitutional project suggests its first concern is its own survival.	No longer in the east; less securely elsewhere.	Assured for copper; less so for cobalt.	Beyond the midterms, though nothing in the agreement obliges it to.

★ Decisive condition.

Source: Tellurian analysis.

Measured against its own texts, the agreement has been executed where execution was cheap and unilateral (Exhibit 26). Kinshasa has done most of what it could by signature, statute or decree. Washington has done what it could with its own balance sheet: a stockpile that has taken its first 12,000 tonnes and about USD 1.15 billion of development finance for Orion and the Lobito railway. Its most effective tools, diplomacy and sanctions, sit outside the agreement. **What has not yet been executed is what needs the two governments to act together or to keep paying**: no project approved, no binding equity deal, no funded training programme and no ambassador. The delivered half is still at an early stage: Mercuria reported an initial 12,000-tonne delivery to Project Vault in October, which is not a complete accounting of deliveries under Gécamines' broader US copper arrangements.

EXHIBIT 26

The ledger: what has been executed, and what has not yet

What was cheap and unilateral has been done; what needs joint action or sustained cost has not.

EXECUTED

KINSHASA

- In force on signature, 4 Dec 2025
- Ratification authorised, Apr–May
- Committee met; reserve list designated (5 Feb)
- Law 26/033 (Aug); central tax authority (9 Oct)
- Gécamines copper redirected to US buyers
- Chemaf to Virtus, not Norinco

WASHINGTON

- Project Vault: first 12,000 t of Congolese copper
- DFC: USD 600m in Orion, USD 553m for Lobito

PARTLY EXECUTED

- Reform clause: tax law passed; 12-month deadline falls 4 Dec 2026
- Right of first offer: ~50 projects sent, no reply made public
- Security cooperation: assessment and agreements, no programme
- Glencore–Orion: memorandum since 3 Feb, not binding
- Task force: created 11 Sep, seven months late

NOT YET EXECUTED

- Any project approved or rejected
- A published reserve list or award
- A second committee meeting
- A binding American equity investment at scale
- A funded training programme
- A US ambassador in Kinshasa
- Financing for Lobito's Congolese section
- Reported US shipments of cobalt, lithium, germanium or gallium

Source: Tellurian analysis of the agreement and security memorandum; notes 2, 14–16, 37, 49–57, 59, 61, 67–75.

The agreement should therefore be **judged by what it makes visible and enforceable, not by what it promises**. **Each side paid in what was cheapest to give**: Kinshasa in rights to assets it does not fully control, Washington in pressure it can withdraw at will. The Congo has opened its mines to the world twice before, and both times the announcement outran the delivery. The third has more competition behind it, more at stake for Washington and, at ten months, much still to prove. **But competition is not enforcement**, and a deal now politically tied to one president's fortunes will need more than promises to keep its legitimacy beyond him. Until the minerals are verified and the security delivered, the agreement will remain what it is today: **a claim on the Congo's future that neither party yet has the power to collect**.

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This paper relies on the signed text of the agreement (Treaties and Other International Acts Series 25-1204), Congolese legislation and official statements, UN, trade and industry data, and reporting up to 26 October 2026. Unless a year is given, dates refer to 2026. Where a claim rests on a single or interested source, the note says so.

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