



THE SENTRY

# Gaming the System

How a Canadian  
Mining Giant  
Undermined the Law  
in the DRC



December 2022

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## Executive Summary

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The multibillion-dollar Canadian mining company Ivanhoe Mines Ltd. and its American-born founder Robert Friedland say they are on the cusp of industrial glory in the Democratic Republic of Congo (DRC).<sup>1, 2, 3, 4, 5</sup> Twenty-five years ago, Friedland's company braved the uncertainties of civil war and the impending fall of a dictatorship to place a high-stakes bet on mineral exploration in the Central African Copperbelt. Now, after years of grit and tenacity, it boasts of a rare and prized asset—Africa's largest-ever copper discovery, a project poised to become the world's third-largest copper producer by 2024 and the second largest thereafter, with the highest grades of ore in the world.<sup>6, 7</sup> The passage of time has also delivered good fortune as Ivanhoe brings its product to market in a changing world: the transition away from the fossil fuel era and the enormous demand for renewable energy infrastructure it entails are due to send demand for copper skyrocketing.<sup>8</sup>

Along the way, however, there have been worrying signs that corruption may be present. Evidence reviewed by The Sentry shows that, in recent years, a top Ivanhoe executive arranged to share a potentially lucrative cut of local subsidiaries with a politically connected individual, doing so just as the Congolese government took apparently illegal actions that preserved the heart of what Ivanhoe now calls one of its "key assets." This has allowed the publicly traded company to hold on to exploration licenses that, by law, it should have surrendered years ago, having apparently only recognized their value right before they were due to expire.

In effect, the company appears to have acquired the power to disregard domestic laws and regulations intended to maximize the value the Congolese people receive for the sale of their country's mineral wealth, thereby helping entrench elite capture of the DRC's natural resources and hampering the rule of law in one of the world's poorest nations. Ivanhoe has since extensively promoted these assets on international stock markets and reportedly entertained at least one major partnership concerning them, prompting the question of whether the company sought to raise capital in the world of wealth and high finance by flouting Congolese law.

In the past, Ivanhoe has defended its dealings with Théophas Mahuku, an architect of the business holdings of Zoé Kabila, brother to former President Joseph Kabila, who was only two months from the end of his 18-year reign as the key events described here were unfolding. This report adds to Ivanhoe's history of close cooperation with Mahuku, who has publicly vaunted his ability to solve his business partners' problems by working his government connections.<sup>9</sup> There is reason to believe Ivanhoe's practice of aligning itself with persons connected to powerful government figures may have continued into the post-Kabila era. Recent news reports show a close aide to President Félix Tshisekedi boasting on hidden camera of his personal business with Ivanhoe and offering to help other unnamed individuals route political contributions via contractors, among other things. No Ivanhoe employee appeared in the recordings, and when reached for comment, the company told reporters that it operated in the DRC according to stringent anticorruption policies. The advisor, Vidiye Tshimanga, has denied any wrongdoing.<sup>10, 11</sup>

All of this underscores the need for Ivanhoe to offer a compelling explanation for why Mahuku keeps cropping up at decisive regulatory junctures for the company and how it could legally have claimed many of the mineral rights it now holds. The available documentary record raises serious concerns of corruption but does not conclusively indicate that bribery took place. At a minimum, however, the circumstances described in



this report show that the state apparently allowed a major outside player and a politically connected local business partner to sidestep the law.

Furthermore, these findings and the questions they raise are not wholly new ones for Ivanhoe. They arise against a backdrop of allegations of misconduct stretching back to the 1990s and over which Ivanhoe now seems to be facing mounting troubles. Though no charges have been announced, Canadian authorities have begun an anticorruption investigation into Ivanhoe Mines, carrying out a search last year of the company's Vancouver, British Columbia, offices on suspicion of foreign bribery, according to Ivanhoe's disclosures to investors.<sup>12</sup> Court documents indicate that police are scrutinizing the possibility of bribery in Ivanhoe's relationship with the Congolese national power utility Société National d'Électricité (SNEL) and the Swiss hydropower engineering firm Stucky SA, now known as Gruner Stucky, a unit of the engineering services company Gruner that is upgrading colonial-era power stations on behalf of Ivanhoe.<sup>13</sup> Neither Gruner nor SNEL responded to The Sentry's requests for comment. The Canadian investigation is not directly related to the matters discussed in this report but raises questions about a possible emerging pattern of behavior, further illustrating the need to broaden official inquiries into Ivanhoe's conduct.

In response to The Sentry's request for comment about the findings in this report, Ivanhoe Mines said its operations were subject to strict corporate anticorruption policies and internal controls and that any inference of corruption or malfeasance was "simply incorrect." The company declined to offer detailed responses to most of The Sentry's questions but said they concerned processes and procedures common to corporations operating across international borders over extended periods of time, adding "there are lawful, commercially reasonable and conventional explanations for these matters."<sup>14</sup>

### Key recommendations

- **Ivanhoe Mines Ltd.** should commission an independent and thorough internal investigation of the matters raised in this report, take all necessary measures to come into legal compliance where appropriate, and submit the results to relevant authorities; it should impose appropriate sanctions on any executive or staff member found to be in breach of legal or ethical obligations.
- **The Congolese government** should investigate the findings presented in this report and, if appropriate, initiate proceedings if Congolese criminal statutes or regulations have been violated.
- **The Canadian and United States governments** should review the findings presented in this report and open investigations into any potential violations of securities laws or criminal statutes.
- **Financial institutions** should review the transactions and payments executed on behalf of Ivanhoe and other companies mentioned in this report to identify any behavior that could form the basis of a suspicious transaction report to the local financial intelligence unit (FIU).



## From Civil War to the C-Suite\*

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Known for flair and panache over his four-decade career, Ivanhoe Mines Ltd. founder Robert Friedland is a sought-after public speaker and broadcast interviewee with a reputation for repeat successes in mineral exploration.<sup>15, 16</sup> The world's impending industrial transition provides him with an appealing pitch to investors: Friedland has pointed to forecasts that demand will quickly outstrip current production of the "green metals" used in renewable energy generation and storage, expanded power grids, and electric vehicles.<sup>17, 18</sup> "This change has been mandated by China," Friedland said in an address to a commodities summit in 2018. "You think through very carefully the raw materials implication and then maybe I can stimulate your hand-to-wallet reflex."<sup>19</sup>

Like others in the mining sector, Ivanhoe portrays itself as a conscientious environmental and social governance actor. The company, which has operations in South Africa in addition to the Democratic Republic of Congo (DRC), says both that producing copper from higher-grade ore is less energy intensive and that the company's use of Congolese hydropower means its carbon emissions are sharply reduced.<sup>20, 21</sup> Ivanhoe has rejected earlier media reporting about its alleged pressure tactics in getting local residents to grant access to land in South Africa and says, on the contrary, that for the people affected by its operations in the DRC, it has a phased resettlement plan that includes constructing new housing, a school, a clinic, and a sports ground, as well as planting crops and distributing livestock.<sup>22, 23, 24</sup> For mining companies in a copper-intensive future, such mutually beneficial relations with local communities will mean the difference between success and failure, according to Friedland, as "the companies that get it right will inherit the industry, and the companies that won't will die."<sup>25</sup>

On the other hand, Friedland and Ivanhoe have shown skepticism, if not hostility, in the face of independent scrutiny from advocacy organizations and the news media, with Friedland once reportedly likening the prospect of increased outside monitoring of corporate conduct to a "rectal examination."<sup>26, 27</sup> While such remarks may be in jest, the company also annually warns investors that it may be subject to reporting by "vocal critics" among nongovernmental organizations, public interest groups, and others who "oppose globalization and resource development" and "may not be bound to codes of ethical reporting."<sup>28</sup> Ivanhoe's relations with the news media can also be notably combative, as it is quick to publish and distribute detailed rebuttals, sometimes accusing journalists or critics of outright dishonesty.<sup>29, 30</sup>

But the critical spotlight comes with the high-risk territory where the company has chosen to work. Friedland created what is now known as Ivanhoe Mines Ltd. in 1993 in the Canadian province of British Columbia, and he made it a vehicle for mining ventures in central and southern Africa at a time when the region was rife with upheaval and conflict.<sup>31, 32, 33</sup> According to correspondence reviewed by The Sentry, African Minerals Corp, as Ivanhoe Mines was then known, signed a preliminary agreement on May 12, 1997, with the political organization then led by Laurent-Désiré Kabila, the rebel leader whose Rwandan- and Ugandan-backed forces would go on to topple the Zairian strongman Mobutu Sese Seko and seize control of the country

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\* Reports by The Sentry are based on interviews, documentary research, and, where relevant, financial forensic analysis. In some cases, sources speak to The Sentry on the condition that their names not be revealed, out of concern for their safety or other potential retaliatory action. The Sentry establishes the authoritativeness and credibility of information derived from those interviews through independent sources, such as expert commentary, financial data, original documentation, and press reports. The Sentry endeavors to contact the persons and entities discussed in its reports and afford them an opportunity to comment and provide further information.



less than a week later.<sup>34</sup> This agreement granted Ivanhoe a 31,185.5-square-kilometer (12,000-square-mile) concession that the company dubbed “Lufupa.”<sup>35, 36</sup>

### A History of Ivanhoe’s Changes in Name and Corporate Jurisdiction

Time Period	Company Name	Corporate Jurisdiction
Apr '93 - Apr '94	KBK No 7 Ventures	British Columbia
Apr '94 - Nov '94	African Gold Corp	British Columbia
Nov '94 - May '95	African Minerals Corp	British Columbia
May '95 - May '98	African Minerals Corp	Yukon
May '98 - Mar '04	African Minerals Ltd	Yukon
Mar '04 - Jun '11	Ivanhoe Nickel & Platinum Ltd	Yukon
Jun '11 - Sep '12	Ivanplats Ltd	Yukon
Sep '12 - Aug '13	Ivanplats Ltd	British Columbia
Aug '13 - Present	Ivanhoe Mines Ltd	British Columbia

Source: Ivanhoe Mines Ltd.

In December of that year, after Kabila had taken over as president of the newly renamed Democratic Republic of Congo, Ivanhoe signed an updated agreement with Kabila’s Minister of Mines Florent Kambale Kabila Mututulo.<sup>37, 38</sup> Some of what happened next is recounted in company disclosures. In financial statements prior to its 2012 stock market debut, Ivanhoe said a 1997 agreement granted it access to four so-called exclusive exploration zones for two projects in Katanga province: the Lufupa concession and another called “Lufira.”<sup>39, 40</sup> This narrative conflicts notably with details in other available documents, which indicate that Lufupa and Lufira together comprised a total of 14 such zones covering 50,000 square kilometers, or about 19,300 square miles.<sup>41</sup> Elsewhere, Ivanhoe has said that the company’s initial footprint in the DRC amounted to 50,000 square kilometers—territory “roughly the size of Slovakia.”<sup>42</sup>

The month the preliminary agreement for Lufupa was signed, May of 1997, was a particularly unstable moment in the history of mining in the DRC. In his final years, Mobutu had looted the mining sector to the point of near collapse and then made haphazard attempts to privatize it.<sup>43</sup> The instant it became clear that Mobutu’s fall was imminent after 32 years in power, the business world sought an audience with Kabila in the DRC’s southern mining capital of Lubumbashi. Businesspeople and officials from the United States Capitol began to arrive in rebel-held territory by the planeload; they included representatives from Goldman Sachs and the office of US Senator Jesse Helms, then the Republican Party chairman of the Senate Committee on Foreign Relations.<sup>44, 45, 46, 47, 48</sup>

It was not long before allegations began to surface that this general frenzy involved serious improprieties.<sup>49</sup> Minister of Mines Mututulo later told American television news reporters that, while he personally had not accepted any illicit payments, significant cash sums were definitely on offer: “Certainly, certainly people got bribed,” he said, without referring to any specific individuals or entities.<sup>50</sup> In retrospect, Congolese society



came to view the wars through which their country suffered in the late 1990s and early 2000s as a lawless era in which various armed factions and centers of power carved up the country's wealth in general indifference to public welfare while foreign investors had the upper hand.<sup>51</sup>

No sooner was Kabila in power, however, than his allegiance with Rwanda began to break down amid mistrust and diverging interests.<sup>52</sup> A disastrous second conflict broke out in 1998 that would go on to cost millions of lives over the following five years.<sup>53</sup> Ivanhoe says it soon declared force majeure, putting its exclusive exploration zones on hold due to renewed unrest and physical dangers to its staff.<sup>54</sup> By 2001, Laurent-Désiré Kabila had been assassinated and replaced by his son Joseph.<sup>55, 56</sup>

With encouragement from the World Bank, the new president recast the legal framework for Congolese mining beginning in 2002, ostensibly in a bid to liberalize a vital economic sector by creating a single, objective, and uniform system for all mining companies, "thereby ruling out the system of mining agreements" used previously.<sup>57, 58</sup> Immediately after mining regulations took effect the following year, Ivanhoe, at the time still called African Minerals, says it applied to convert the 1997 exploration zones to exploration licenses and was initially granted 36 of them.<sup>59</sup>



## Working the Ref: A Turf Battle With Anglo American

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When Ivanhoe Mines first made its territorial claims in the DRC in 1997, they were partly overlapped by those of a rival, provoking a high-stakes dispute. Time and again over the next eight years, Congolese officials acted in Ivanhoe's favor in the dispute, sometimes improperly, according to a government committee. In 2007, that committee publicly accused Ivanhoe of resorting to forgery and fraud in an attempt to defend illegitimate claims to the disputed land. Again, however, a friendly government minister intervened on Ivanhoe's behalf.

Created in 2002 with the adoption of a new mining code, the interministerial Mining and Quarry Rights Validation Committee was tasked with resolving territorial disputes that arose from overlapping claims during the transition to a new standardized licensing system that abandoned the use of exclusive exploration zones negotiated by contract.<sup>60</sup> According to findings published in 2007 by the committee, which was then presided over by the Congolese international jurist Mikuin Leliel Balanda, by early 1997, Anmercosa Exploration Congo SPRL, a local subsidiary of the mining company Anglo American, had already reached a preliminary agreement with the Mobutu regime, and then the new government of Laurent-Désiré Kabila, for a concession that included two exclusive exploration zones later claimed by African Minerals.<sup>61, 62, 63, 64, 65</sup>

This put Anmercosa directly at odds with Ivanhoe. From then on, according to the Validation Committee, the Anglo American subsidiary faced repeated frustrations: after Kabila's Ministry of Mines approved Anmercosa's contract, the company discovered, before signing, that two zones claimed by African Minerals had mysteriously been cut out of the text. In 1999 and 2001, government officials twice recognized the merits of Anmercosa's position, but each time the presidency refused to sign a new contract, according to the Validation Committee.<sup>66</sup>

When the new Mining Cadaster began operations in 2003, both companies submitted overlapping applications, and again African Minerals prevailed over Anmercosa. According to the committee's findings, this too was illegitimate: without legal authority, cadastral officials had improperly adjudicated the dispute themselves rather than referring it to the Validation Committee and had decided in African Minerals' favor on faulty grounds—by citing the wrong date on a form—even though other evidence clearly showed that Anmercosa had been first to submit its application.<sup>67</sup>

Anglo American reportedly sold Anmercosa in 2004, and in 2005, the Mining Cadaster finally dismissed Anmercosa's protests.<sup>68</sup> From that point, both Ivanhoe and the cadaster appeared to have considered the matter closed. At least one Mining Cadaster exploration certificate reviewed by The Sentry was awarded to African Minerals (Barbados) Ltd SPRL in March of 2005, and according to Ivanhoe, the company received a total of 14 additional exploration licenses following the resolution of a territorial dispute in April of that year, leaving the company with a total of 50 such licenses under the new system.<sup>69, 70, 71</sup>

The Sentry contacted Anglo American and Asa Resource Group plc, the current name of the company that became Anmercosa's corporate parent, for comment, but they did not respond.<sup>72</sup> Jean Félix Mupande, director general of the Mining Cadaster, told The Sentry that cadastral records were freely accessible and that "all these questions have an answer in the law."<sup>73</sup> However, he declined to provide detailed answers, claiming he doubted The Sentry's objectivity and independence.<sup>74</sup>



When the Validation Committee addressed the matter in 2007, it said that the documents African Minerals submitted to the committee included an apparent forgery. Specifically, according to the committee, what African Minerals asserted was a photocopy of its original December 1997 contract differed significantly from a document the committee believed to be the true original. The Validation Committee found that the two were actually separate and distinct documents concerning the Lufupa and Lufira concessions. African Minerals failed to respond to two requests to provide the original contract, “thus tacitly confirming its knowledge of the forgeries,” and further failed to produce the document when a representative did finally appear, the committee found.<sup>75</sup> As a result, the committee directed the Mining Cadaster to award the disputed territory to Anmercosa. It also rejected African Minerals’ claims, instead deciding “to have this company prosecuted” for forgery and fraud.<sup>76</sup>

In June of 2007, the Mining Cadaster formally notified Anmercosa and African Minerals of the Validation Committee’s decision, which the Mining Cadaster said it would be required to enforce barring any appeal.<sup>77</sup> However, within two months, Minister of Mines Martin Kabwelulu put a stop to this, informing the Mining Cadaster that the Validation Committee’s mandate had in fact expired before it rendered its decision, “which must be considered ineffective or better yet non-existent.”<sup>78</sup> The same day, he issued a ministerial decree declaring any decision issued by the Validation Committee after February 6, 2007, to be “null and void.”<sup>79</sup> In their responses to The Sentry, neither Kabwelulu nor Ivanhoe Mines addressed questions related to these committee findings.

### **Blast From the Past?**

Several years after winning its territorial battle, Ivanhoe Mines moved to block the government from future attempts to challenge the legitimacy of its mineral titles in its flagship Kamao project, which was then at a crucial stage. Such a challenge could have imperiled a principal asset just as Ivanhoe was poised to embark on capital-intensive development. As part of a written agreement in 2016 that increased the Congolese government’s share of the Kamao project, Ivanhoe’s main copper mine, from 5% to 20%, Ivanhoe obtained a guarantee from the government that it “acknowledged and confirmed that all licenses and mining rights” included in the project were “valid and in good standing, without any defect and [...] not subject to any cancellation or to any litigation or dispute whatsoever.”<sup>80</sup>

That agreement came at the end of a noisy, public dispute with the Congolese government, which had pressured Ivanhoe, delaying a \$412 million investment by the Chinese state-backed company Zijin Mining that had been announced in May 2015.<sup>81</sup> Under the agreement, Zijin was to buy 49.5% of the Barbados holding company controlling the Kamao copper project in Lualaba province. At the same time, Ivanhoe also said it had offered to “sell” the Congolese government an additional 15% stake in the Congolese subsidiary operating the project “on commercial terms to be negotiated.”<sup>82</sup>

The day after the announcement, Congolese authorities pounced, claiming that, given their negotiations to increase their share of the project, they should have been consulted on the Zijin transaction.<sup>83</sup> Ivanhoe publicly explained that Zijin’s investment in the Barbados holding company would not affect the government’s stake in the domestic subsidiary, but Congolese objections grew louder, delaying the deal.<sup>84, 85, 86</sup>



Bloomberg and the Congo Research Group later noted that the government dropped their objections to the deal in September 2015, shortly after Ivanhoe awarded a contract for “a number of small civil works” to the mining services company Tanga Logistics and Mining SA (TLM), which at the time was jointly owned by a businessman named Théophas Mahuku and his business partner Zoé Kabila, a member of Parliament at the time and a brother of then-President Joseph Kabila.<sup>87, 88, 89</sup> Investor relief at the end of the impasse was clear, given the brief bump in Ivanhoe’s share price on the day of the announcement.<sup>90</sup> Neither Mahuku nor Zoé Kabila replied to queries from The Sentry.

Both Mahuku and Ivanhoe reportedly denied that there was any connection between their business dealings and the government’s change in position, a suggestion Ivanhoe called “contrived innuendo” in 2017, claiming it had no knowledge of TLM’s connection to Zoé Kabila and noting that TLM had unsuccessfully bid on another more lucrative Ivanhoe contract later in 2015.<sup>91</sup> However, that second contract was awarded after the government had already ceased its objections. It’s also noteworthy that, as of November 2019 at the latest, Mahuku held a 31% stake in Jimond Mining Management Company SARL (JMMC), a local subsidiary of the Chinese contractor JCHX Mining Management, which was working at Ivanhoe’s Kakula site performing blasting, tunnelling, and construction.<sup>92</sup> JCHX did not respond to a request for comment from The Sentry.

The deal to increase the DRC government’s stake in the Kamoia copper project took another year to finalize. Notably, when Ivanhoe first made the initial May 2015 announcement, it said that it had offered to sell the DRC government another 15% of the Kamoia Project’s DRC subsidiary on commercial terms. In subsequent communications on the matter through June of 2015, Ivanhoe continued to refer to the pending 15% transaction with the government as a sale at commercial rates.<sup>93, 94</sup>

But in announcing in September 2015 that a deal had been reached, Ivanhoe’s language appeared to change, suggesting that the Congolese government may ultimately have acquired its additional 15% stake at a substantially reduced cost. Whereas it had previously referred to a commercial sale, Ivanhoe now simply mentioned a “transfer.”<sup>95</sup> The announcement made in November 2016 likewise referred to a “transfer” and did not discuss any sale price or consideration on commercial terms or otherwise.<sup>96</sup> In an annual report for 2016, Ivanhoe elaborated on the terms of the deal, saying the share transfer had occurred “for a nominal cash payment and other guarantees.”<sup>97</sup>

It is unclear why the intended commercial sale of a company asset morphed into its transfer for a nominal amount, but it is noteworthy that, in the process, the government pledged not to challenge Ivanhoe’s mining titles in its most important project, instead guaranteeing Ivanhoe “the peaceful enjoyment of its mining rights.”<sup>98</sup>

Zijin Mining did not respond to a request for comment, but in response to questions from The Sentry, Ivanhoe Mines said the government’s 20% stake represented “the purposeful formation of a partnership under which it was determined the mine development would best advance.” The company also noted that the government’s share exceeded the legal minimum for state shareholding that was in effect at the time of the agreement.<sup>99</sup>

“Kamoia-Kakula was subsequently developed ahead of schedule and on budget and has become a model of mineral development and foreign direct investment in the DRC,” Ivanhoe said.



## Hitting the “Sell-By” Date ... and Ignoring It

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“Promoting a stock is like making a movie. You’ve got to have stars, props, and a good script.”

- Robert Friedland, ahead of a 1994 trip to Namibia<sup>100</sup>

In 2012, Congolese authorities granted three production licenses for Ivanhoe’s Kamo-Kakula copper mine, which now covers nearly 400 square kilometers (154 square miles) in Lualaba province. These licenses authorized operations there for at least 30 years.<sup>101, 102</sup> According to one analysis in 2020, the mine could have an after-tax value of \$11.1 billion, but following the Zijin transaction, Ivanhoe’s indirect ownership of the project fell to 39.6%.<sup>103, 104</sup>

Nearby, however, is a package of Ivanhoe exploration licenses covering roughly 2,400 square kilometers (about 925 square miles) that the company refers to as its “Western Foreland Exploration Project.” Ivanhoe says that, unlike Kamo-Kakula, it owns 90-100% of these licenses and has frequently claimed that they could contain similarly attractive deposits.<sup>105</sup> Friedland has, by one detailed account, long been an accomplished practitioner of the speculative technique known as an “area play,” which entails acquiring territory adjacent to other discoveries in the belief that they may cover the same ore body.<sup>106</sup>

For example, Ivanhoe has said that the Western Foreland licenses are “highly prospective for Kamo-Kakula-type targets,” making the company “confident of additional exploration success.”<sup>107, 108</sup> Public statements have referred to the project’s “outstanding,”<sup>109</sup> “unparalleled,”<sup>110</sup> and “tremendous”<sup>111</sup> potential. In 2018, the company announced its first major Western Foreland breakthrough, saying assay results had returned copper grades as high as 7.81% at a depth of just over 500 meters.<sup>112</sup> By comparison, the average global ore grade for copper around that time was, by one estimate, as low as 0.62% and likely to fall.<sup>113</sup> In 2019, Ivanhoe geologists said they believed a fault structure running east to west from the “Kamo North Bonanza Zone” could be traced for up to 20 kilometers into the Western Foreland exploration areas.<sup>114</sup>

The effect such pronouncements could have on investors is not hard to see. In 2020, the company said it had begun “strategic discussions” about the Western Foreland project with other companies and various entities in the world of high finance.<sup>115</sup> The following year, Bloomberg reported that BHP Group, the world’s largest mining company, was in talks to invest in the Western Foreland.<sup>116, 117</sup>

All of this is highly problematic in the eyes of Congolese law, which, at the time many of the Western Foreland licenses were granted, allowed for a maximum lifespan of 15 years—an initial five-year license with two possible renewals.<sup>118, 119</sup> Consequently, any exploration licenses granted in 2003 should have expired in 2018 at the very latest, and those granted in 2005 could not exist past 2020. By law, upon an exploration license’s expiry, its territory becomes “free of all rights,” with the license holders to be “immediately” notified of this change.<sup>120, 121</sup> Ivanhoe seems to have acknowledged as much in its 2016 annual report, in which it referred to the exploration licenses initially granted in 2003 and 2005, writing, “outside of the permits converted into the Kamo mining licence, all of the permits are in their final five-year period following which they will expire.”<sup>122</sup>

Under these legal provisions, by 2020, at least seven of the Western Foreland licenses covering 548.2 square kilometers (211.7 square miles), or about 23% of the project’s total current area, ought to have expired.<sup>123</sup> But Ivanhoe says that exploration of the Western Foreland area began in earnest only in 2017,



by which point the oldest of these licenses had already been in the company's possession for 14 years.<sup>124</sup> Indeed, when Ivanhoe announced it had hit high copper grades at its "Makoko Discovery" in October 2018, the exploration license containing it, PR708, had only two years of validity left, according to government data.<sup>125</sup> The following month, Ivanhoe disclosed that assay results were pending for drilling targets it dubbed "Kamilli," "Mballi," and "Kiala," releasing this information on the very day two of the licenses in question were due to expire.<sup>126, 127</sup>

Instead of relinquishing nearly a quarter of the Western Foreland, Ivanhoe progressively added resources to exploration in the area, pursuing a stratigraphic diamond drill program at PR708 in 2020.<sup>128</sup> The following year, Ivanhoe increased its budget 30% to \$21 million, using proceeds from a debt issuance to help boost Western Foreland activities, including extensive drilling at the theoretically expired licensed areas containing the Kiala and Makoko discoveries.<sup>129</sup> The company says it has set a 2022 exploration budget of \$25 million for the Western Foreland and other targets.<sup>130</sup>

### Racing against the clock... and calling on a friend

Why did Ivanhoe feel confident that it could begin exploring in old licensed areas and promoting them to investors even though the company's rights were due to expire imminently? The answer seems to be related to arrangements put in place by Marna Cloete, Ivanhoe's current president who served as chief financial officer from 2009 to 2020.<sup>131</sup> In the process, she transferred a cut of the Western Foreland to Théophas Mahuku, the businessman whose company had won an Ivanhoe contract at a crucial moment in 2015 and whose ties to the former presidential family are well documented.

Mahuku's relationship with the Kabilas goes back at least 24 years, according to media reporting, when he first met Joseph Kabila and was later introduced to two of his siblings, Jaynet and Zoé.<sup>132</sup> In 2001, Mahuku joined Jaynet and her sister Josephine Kabila on the board of a charitable foundation created in memory of their father following his assassination.<sup>133</sup> Mahuku claims that during Joseph's early days as president, Mahuku helped Kabila family members go into business because, at the time, the new president had excluded them from politics.<sup>134</sup>

Mahuku and Zoé Kabila reportedly held joint ownership in a web of varied commercial interests that included hospitality, travel, and government contracting entities, but their mining sector holdings were more consequential.<sup>135, 136</sup> In 2007, Mahuku established La Générale Industrielle et Commerciale au Congo (GICC), and later that year, Zoé's holding company, Cosha Investment, took 90% ownership of it.<sup>137, 138</sup> Together with Zoé's son, Nunez Taratibu, they also owned Katanga Premier.<sup>139, 140</sup> Mahuku and Zoé Kabila may have taken some steps in later years to disentangle their commercial interests, but available records suggest that, around the time of Ivanhoe's involvement with Mahuku in 2018, the pair were still entwined.<sup>141</sup>

Mahuku's connections meant that his services were in demand. The year GICC was created, it was hired as a consultant by the mining company Moto Goldmines to help in "obtaining all relevant government approvals and consents" for the development of a project in the DRC, where authorities at the time were conducting a sweeping review of existing mining agreements that theoretically could have jeopardized Moto's investments.<sup>142, 143</sup> As GICC was partly paid in Moto Goldmines stock, the arrangement amounted to a multimillion-dollar windfall for GICC when two larger companies acquired Moto Goldmines in 2009.<sup>144</sup>



Moto Goldmines told Bloomberg it believed Zoé Kabila had no active role in GICC's operations, and Mahuku likewise said he was the one best placed to help. "The problems they were having were at the Ministry of Mines, so it was me who resolved them," he said. "I had all of the relationships."<sup>145, 146</sup> These contacts and problem-solving skills may be precisely what made Mahuku an attractive business partner when Ivanhoe was in a tight spot several years later.

At the end of August 2018, with the early November expiration dates for three of the Western Foreland licenses just 70 days away, Cloete created a Congolese company called Magharibi Mining SAU, retaining 100% of the company's shares in her own name at a value of \$50,000, according to corporate records reviewed by The Sentry.<sup>147</sup> Over the next two months, an attorney she had engaged, Gabriel Kazadi Muteba, then of the politically connected Congolese law firm Emery Mukendi Wafwana & Associates, oversaw a flurry of bureaucratic activity: drafting, adopting, and notarizing the company's articles of incorporation and the minutes of an initial board meeting; depositing them with the Ministry of Justice; opening a bank account; and registering the company with the ministries of Labor, Finance, and Economy, among other necessary formalities.<sup>148, 149, 150, 151, 152, 153</sup>

With just 18 days remaining before the licenses' expiry, Cloete instructed Kazadi to increase Magharibi Mining's share capital by \$840,000 and then transfer 90% of its shares back to Ivanhoe, reserving the remaining 10%, with a face value of \$89,000, for Mahuku.<sup>154</sup> It is unclear whether Mahuku bought these shares or received them gratis, but they held the potential to increase in value substantially, as the permits in question contained the Mbali and Kamilli drilling targets, the existence of which Ivanhoe had publicly disclosed earlier that month.

Cloete's actions up to this point can partly be explained by legal requirements. Under a new set of laws and regulations that had been adopted earlier in 2018, mineral production license applicants were required to create a new local subsidiary for each new license, with 10% of their shares reserved for Congolese individuals. Regulations suggest, but do not appear to require, that a mix of workers and investors be selected to hold these shares. Another 10% must be reserved for the state.<sup>155, 156</sup>

Kazadi did not respond to The Sentry's requests for comment, but Ivanhoe Mines told The Sentry that Cloete's role in creating Magharibi Mining reflected common practice and occurred in the interests of expediency, "as the formalities to establish a new company can take days or weeks."<sup>157</sup> Ivanhoe Mines continued, "Given those timing constraints, a company is often set up with a single individual shareholder such that the relevant opportunity is not lost. Rest assured, Ms. Cloete derived no value and transferred the shares subsequently with no consideration to herself."<sup>158</sup>

What happened following Cloete's actions also reveals some of the ways in which Mahuku may have been helpful beyond simply allowing Magharibi Mining to meet some of the legally mandated shareholding requirements. With two weeks remaining in the licenses' 15-year lifespans, Ivanhoe applied to the Ministry of Mines to transfer them to the new company Magharibi Mining.<sup>159</sup> It also requested the transfer of four other expiring permits to a company called G12 Entreprise SARL, owned by a Mahuku-Kabila business associate named Issa Ganda.<sup>160, 161, 162</sup> The Sentry attempted to reach Ganda for comment but did not receive a response. Martin Kabwelulu, the minister of mines who 11 years earlier had formally nullified official findings accusing Ivanhoe of fraud, granted all seven applications on November 8, 2018—the day before they were due to expire, according to government data.<sup>163, 164</sup>



Available records indicate that the speed of this processing time was extraordinarily fast. The 13-calendar day turnaround notably included two weekends, and while ministerial decrees approving transfers of exploration licenses appear to be published infrequently, an analysis of 22 licenses issued between November 2018 and April 2019 and published by the Ministry of Mines shows a median processing time for all other applicants of 61 calendar days.<sup>165</sup> Ivanhoe also appeared to receive expedited treatment while other requests languished. By the time it submitted its applications on October 26, 2018, another company, Kwango Mining, had already been waiting for more than six months but wouldn't see its requests granted until three weeks after Ivanhoe's were completed—a total of 226 days.<sup>166</sup>

This 13-day period would also have left little time for Congolese officials to meet legal requirements for processing the permit transfers, which include technical and environmental reviews with on-site visits.<sup>167</sup>

There is further evidence that the Ministry of Mines reserved preferential treatment for Ivanhoe. Applications to renew exploration licenses appear to be far more frequent than transfer applications, and here again, Ivanhoe incontestably holds the record. According to The Sentry's analysis of 311 ministerial decrees responding to license renewal applications between August 2011 and April 2019, the median processing time was 296 days while the average was 448 days—nearly 15 months.<sup>168</sup> The fastest processing time in the available records belongs to Ivanhoe, which saw two of its exploration license renewal applications processed in just six calendar days between Christmas Eve and December 30, 2015, a period that contained perhaps three business days or fewer.<sup>169, 170</sup>

It is not clear how the ministry could have processed these renewals and still complied with Congolese laws then in effect, given that applicants were required to seek renewals no less than three months before a permit's expiration to allow officials time to process it.<sup>171</sup> Notably, the starts of the new five-year validity periods for these two licenses were backdated to eight months before the decrees' issuances, suggesting that Ivanhoe may have allowed the licenses to lapse and was retroactively seeking to resurrect them.<sup>172</sup>

Most importantly, these circumstances point to the lengths that the Ministry of Mines went to in unlawfully protecting Ivanhoe's interests. The Congolese mining code does not provide for the extension of an exploration license beyond its maximum lifespan by simply transferring it to a new owner.<sup>173</sup> As Ivanhoe itself had earlier acknowledged in securities filings, the permits in question were due to expire, meaning that the seven licenses transferred to Magharibi Mining and G12 Enterprise on November 8, 2018, should have ended that day at midnight.

That did not happen. Instead, the Ministry of Mines granted an additional five-year validity period for each of these licenses, allowing the possibility of renewals for yet another five years each, thereby extending the licenses' possible lifespans until 2028—more than 30 years after Ivanhoe first laid claim to the territory for the purposes of exploration.<sup>174, 175</sup>

Kabwelulu did not respond to detailed queries, citing the age of the events in question, but he told The Sentry that “there was never any haste to sign in the sense of offering any favor to anyone at all, let alone Ivanhoe.”<sup>176</sup> The Sentry also submitted questions to current Minister of Mines Antoinette N'Samba Kalambayi but did not receive an answer.





A copy of the Mining Cadaster exploration certificate for license PR712, which partly contains the Kamilli target. Issued to African Minerals (Barbados) Ltd SPRL in 2003, the year the Second Congo War ended. Source: DRC Mining Cadaster.



A copy of the Mining Cadaster exploration certificate for the same license, issued to Ivanhoe subsidiary Magharibi Mining 15 years later on November 9, 2018, which would have been the day of its expiry. Source: DRC Mining Cadaster.

The licenses' extralegal extensions were not the only sign that Congolese authorities may have been improperly assisting Ivanhoe. As other Western Foreland licenses neared expiry, the Mining Cadaster appears to have quietly begun to push back the end dates for the licenses containing the Makoko and Kiala discoveries that Ivanhoe had announced in 2018. As of March 2020, these four Western Foreland licenses were due to expire within two months.<sup>177</sup> A year later, however, their expiry dates had somehow all been moved back nearly 16 months to September 2021.<sup>178</sup>

Mahuku got a cut of Makoko too, giving him a direct financial interest in all of the Western Foreland areas that had been due to expire between 2018 and 2020, about a fifth of the project's land mass. In the first half of 2020, Ivanhoe executives created a new local subsidiary called Makoko SA, in which Mahuku was a shareholder.<sup>179, 180</sup> Available incorporation documents do not specify the level of Mahuku's shareholding, but according to Ivanhoe, 10% of the subsidiary is in Congolese hands for legal reasons, as is the case for Magharibi Mining.<sup>181</sup> Available cadastral data now shows that exploration licenses for PR704, PR706,



PR708, and PR714 are held by Makoko SA.<sup>182</sup> Similarly, corporate registry data shows that in 2021, Mahuku and the French investor Robert Choudury formed Lufupa Mining SARL, bearing a notably similar name to the Ivanhoe subsidiary Lufupa SASU, which holds two other Western Foreland licenses, suggesting the possibility of a repeat of the Magharibi and Makoko shareholding arrangements.<sup>183</sup> The Sentry attempted to reach Choudury for comment but did not receive a response.



Left: Basic data for PR708, which contains the Makoko discovery, as displayed on the Mining Cadaster’s web portal on March 2, 2020, showing expiration was two months away. Right: Data for the same exploration license as displayed on March 3, 2021, with 16 more months of validity apparently added in November of 2020. Source: DRC Mining Cadaster.

In 2017, Ivanhoe rejected critical reporting on other dealings it had had with Mahuku, saying that it had had no knowledge of Zoé Kabila’s ownership of companies managed by Mahuku and that Zoé had no involvement in the tendering process for the contracts ultimately awarded to them.<sup>184, 185</sup> In light of these detailed statements, the company cannot claim that when the transactions at the center of this report occurred a year later, it remained ignorant of the Mahuku-Kabila relationship. Neither Zoé Kabila nor Théophas Mahuku replied to The Sentry’s requests for comment.

Law enforcement authorities and international organizations generally recommend that companies do business with their eyes open: to help prevent corruption, they should perform due diligence on business partners in foreign jurisdictions, including by identifying their beneficial owners, particularly in higher-risk circumstances.<sup>186, 187, 188, 189</sup> If Ivanhoe indeed did so in this case, it should have come across a major red flag. In addition to being the son and brother of Congolese presidents, Zoé Kabila was elected to the National Assembly in 2011 to represent what is now part of Tanganyika province before briefly serving as provincial governor.<sup>190, 191, 192</sup> As a result, he met prevailing definitions of a foreign public official, requiring anticorruption measures to be applied to allow Ivanhoe to comply with Canada’s Corruption of Foreign Public Officials Act.<sup>193, 194</sup>

### Mining ... already?

Records indicate that Ivanhoe has since asked the Congolese government to convert all seven of these expiring licensed areas from the exploration phase to mineral production.<sup>195</sup> This could come as a surprise to investors, given that Ivanhoe continues to describe the Western Foreland as an “exploration project” and has not reported plans to develop a mine in the Western Foreland.<sup>196</sup>

One reason to seek to convert licenses from exploration to production may be that the latter are valid for 25 years, not five, and can be renewed indefinitely for 15-year periods, offering respite from looming govern-



ment foreclosure.<sup>197</sup> Former Minister of Mines Kabwelulu, who stepped down in 2019 after 12 years, told the Carter Center in 2014 that the Congolese government had used this maneuver to preserve expiring licenses held by the state mining company La Générale des carrières et des mines (Gécamines). “It risked losing its titles so we gave it that privilege so that it could immediately start production on its concessions,” he said.<sup>198, 199</sup>

This would then appear to be another situation in which Ivanhoe and Congolese officials did not observe applicable laws: production licenses can only be granted if applicants can show the existence of economically viable deposits, and they must transfer 10% of their shares to the state.<sup>200</sup> They must also show currently valid exploration licenses and submit reports on exploration results, project feasibility, the assessment and management of environmental and social impacts, and consultations with local communities.<sup>201</sup> It is unclear how Ivanhoe could satisfy these conditions while also pursuing the early phases of exploration.

### Updating investors... perhaps a little late?

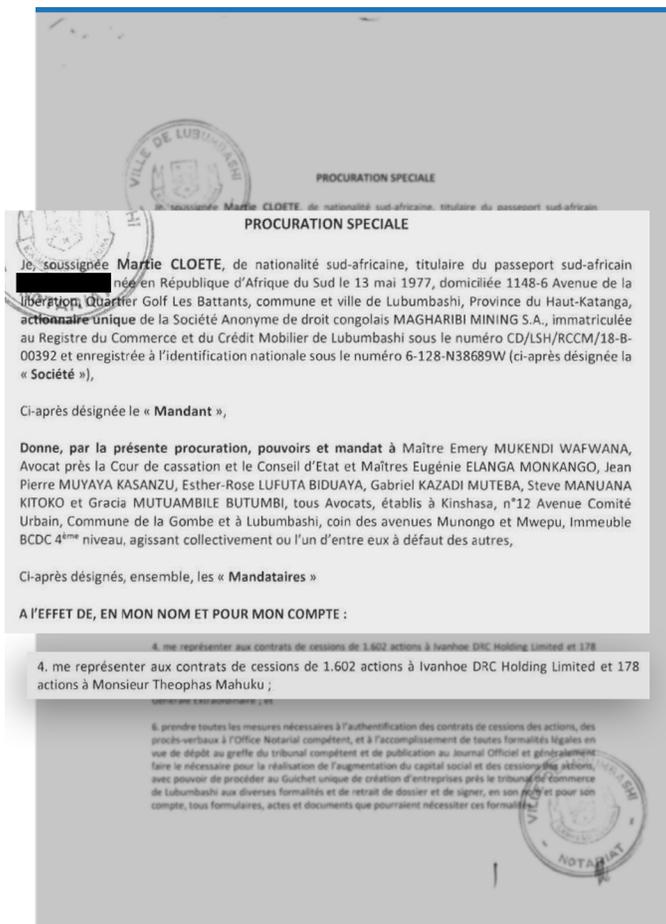
Securities filings show that Ivanhoe was not immediately transparent with the investing public about the Mahuku transactions. While available records show that, at Cloete’s instruction, Mahuku appears to have received his 10% equity in Magharibi Mining no later than November 10, 2018,<sup>202</sup> Ivanhoe claimed in financial statements over three fiscal quarters across 2018 and 2019 that it owned 100% of the company.<sup>203</sup> In her capacity as CFO at the time, Cloete also certified that in each of these instances, she had read the company’s securities filings, personally verifying that they contained “no untrue statement of material fact” or material omissions.<sup>204, 205, 206, 207</sup>

It’s unclear why Ivanhoe would delay accurately reporting its ownership stake in Magharibi only to correct this after the better part of a year. But it is worth noting that, even after this period, Ivanhoe generally continued to describe the Western Foreland in its publicly available materials as “100%-owned” or “wholly-owned,” doing so in more than 180 instances between early November 2018 and early March 2021, when the company began occasionally describing the license package as “90%-100%-owned.”<sup>208, 209, 210</sup> During this period, the company also said that it began to entertain inquiries about investment in the project with parties who may have relied on these representations.<sup>211, 212</sup>

In its response to The Sentry, Ivanhoe did not address the question of whether these disclosures and public statements were accurate at the time the company made them. It cited the 2018 change to regulations requiring a minimum of 10% local ownership in mining rights as the reason for describing the Western Foreland as “90%-100% owned.”<sup>213</sup> Ivanhoe further offered, “The companies that form part of the Western Foreland that have Congolese nationals in their shareholding are companies that hold exploration permits that are in the process of being converted into mining permits.”<sup>214</sup>

There is reason to believe Cloete’s dealings with Mahuku should not have escaped the awareness of other senior figures at Ivanhoe. Ivanhoe Mines expressly asserts in its securities filings that its management team “directs and must consent to all decisions being made at the subsidiary level through the appointment of directors of the subsidiary.” Furthermore, all disbursements of corporate funds to subsidiaries and joint ventures—which presumably would include capitalizing Magharibi and Makoko and adding Mahuku to their shareholding in 2018 and 2020—are subject to the review and approval of the board or its designees and are based on pre-approved budgets or spending authorities.<sup>215</sup>





In this October 21, 2018, letter granting power of attorney, Martie “Marna” Cloete, then Ivanhoe’s chief financial officer, instructed her lawyer to negotiate on her behalf with Théophas Mahuku for the transfer of 10% of the shares in Magharibi Mining. Source: DRC Registry of Commerce and Securities.

Circumstances strongly suggest the purpose of the 10% transactions with Mahuku, which Ivanhoe has shown some reluctance to acknowledge, may have been to secure continued access to licenses that the law dictated should expire. Yet Ivanhoe’s annual filings also assert that the good standing of Ivanhoe’s Congolese and South African mineral titles “has been confirmed through title reviews and opinions provided by legal counsel in each jurisdiction.”<sup>216</sup>

Ivanhoe has not disclosed the identity or identities of the counsel who provided this analysis, so their independence and the quality of their findings cannot be assessed. If in the DRC this confirmation came from the very same law firm that executed the transactions with Mahuku, then it may be questionable. Furthermore, in an assessment of investor risks, Ivanhoe offers notably specific warnings that, to the contrary, there may yet be “undetected defects” or “irregularities in the chain of title,” which may also have been subject to “the use of administrative processes not specifically contemplated by the DRC mining code,” all of which could make its licenses subject to revocation or competing claims.<sup>217</sup>

Under current law, Congolese authorities may rescind a mining title if they come to learn there was “illegality during [its] issuance,” and current events provide what may be an instructive example as to how post-Kabila governments could act on such potential irregularities as those shown in this report.<sup>218</sup> The administration of current President Félix Tshisekedi, who took office in January 2019, has sought to distance itself from the mining sector policies of his predecessor, reportedly drawing up a list of companies due to face scrutiny and



contract renegotiation. For example, Congolese officials have threatened to seize the massive Tenke Fungurume mine from China Molybdenum in a dispute over royalty payments and mineral reserve estimates.<sup>219</sup> “When you see what happened in this sector during the previous regime, it was scandalous in terms of concessions given to foreign companies,” André Wameso, a top Tshisekedi advisor for economic matters, told Bloomberg.<sup>220</sup>



## Conclusion

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For far too long, corruption has allowed powerful investors from around the world to act as though respect for the explicitly stated, core interests of the Congolese people in the development of their own natural resources is merely optional. Federal police in Ivanhoe's home jurisdiction of Canada now say Ivanhoe may be among such international actors, citing reasonable grounds to believe that, between 2014 and 2018, the company violated Canadian prohibitions on foreign bribery and Canadian criminal statutes as part of a crucial deal to secure access to electricity for its mining operations.<sup>221</sup>

Ivanhoe Mines told The Sentry that it was cooperating with Canadian authorities and that materials seized by police last year were currently subject to a review to identify materials protected by legal privilege. The company also said that, at this point, it has not set aside funds in anticipation of any monetary penalty and had no further comment on the matter.<sup>222</sup>

"Ivanhoe Mines is widely viewed as an outstanding corporate citizen with the DRC and continues to endeavor to conduct its business in accordance with national and international laws and regulations, as well as apply industry-standard legal and technical due diligence processes to all its transactions," the company said.<sup>223</sup>

Whatever the outcome in the Canadian case, the facts revealed by this investigation describe precisely the sort of circumstances in which a corporate actor might feel tempted to offer illicit inducements: a local statute threatens to erase late-in-the-day discoveries that could be used to attract major investments, while local officials in a high-risk jurisdiction appear able to make such problems vanish extralegally. Meanwhile, in a deal the company may have presumed no one would notice, an insider with powerful connections gets a sizeable cut. Business continues uninterrupted, and ultimately, the public in one of the world's poorest nations loses out yet again.

Recent media reporting gives reason to believe that the kind of dealmaking suggested by the facts of this report may not have ended with the Kabila era. Hidden camera videos published in September 2022 apparently show Vidiye Tshimanga, then a close advisor to Tshisekedi, claiming to hold 20% of an unidentified Ivanhoe joint venture and telling unidentified people he believed to be prospective investors that they could use concealed business arrangements virtually identical to those involving Mahuku, which Tshimanga said would be exchanged for expedited processing at the Ministry of Mines and investment security. Among other things he apparently said would have the approval of Tshisekedi, the proposed arrangements also included indirectly channeling payments to political parties by tendering contracts to well-connected service providers.<sup>224</sup>

Tshimanga has subsequently resigned and is facing prosecution. He claims that he was entrapped by malicious actors operating on false pretenses, and the presidency has said that any advisor found to be in violation of legal or ethical duties would be held to account.<sup>225, 226, 227</sup> Neither Tshimanga nor an attorney representing him responded to questions from The Sentry.<sup>228, 229</sup>

The facts set out in this report, and the context into which they arise, are more than enough to justify deeper investigation by relevant authorities in multiple jurisdictions into Ivanhoe's conduct. They also show how easily honest government and the rule of law may be undermined in a fragile democracy when riches are at stake. Congolese law and internationally recognized best practices do not encourage scenarios like that of



the Western Foreland. Indeed, under the rules in effect in 2003, at the time Ivanhoe first obtained the exploration licenses in question, permit holders were required to begin work within six months.<sup>230, 231</sup>

In 1997, when it struck a bargain with Ivanhoe, Laurent-Désiré Kabila's fledgling government said it was granting access to the extensive territory in question in an effort to develop the DRC's vast mineral resources "with the aim of improving the collective's social and economic conditions in the shortest possible time."<sup>232</sup> A quarter of a century later, territory that Ivanhoe vaunts on stock markets as having "outstanding" and "tremendous" potential is yet to be developed and likely won't be for years to come.

Through various means, Ivanhoe appears able to hold on to these titles indefinitely, beginning work when it alone feels the time is right. It's not possible to know how things might have been different had Ivanhoe relinquished the early Western Foreland permits in 2003, 2008, or 2013, but it's distinctly possible that another explorer might have been prepared to act more expeditiously and within the confines of the law.

Countries around the world have designed their laws to encourage bringing mineral deposits into production without delay and to discourage squatting on territory until commodities prices are more to the explorer's liking.<sup>233</sup> The need to avoid stalling is all the more pressing given that the process that takes investors from searching for buried resources to banking revenue from the sale of finished products is already slow and protracted by nature.<sup>234</sup> While there may be debate as to whether encouraging such speedy development is always in the interest of sovereign states—it may arguably push miners to bring product to market when markets are at an ebb or depress prices through oversupply—the "use it or lose it" principle is both long-established and universal.<sup>235</sup>

Clearly, meeting similar objectives has long been on Congolese lawmakers' minds as well. Between 1981 and 2018, Congolese policymakers repeatedly tightened restrictions on the allowable surface area and periods of time that could be granted to mining companies for mineral exploration, at each step seeking to tip the balance a bit more in favor of a country and people contending with international looting.<sup>236</sup>

Such balance can be restored only when companies like Ivanhoe and those who enable them are held to account. The exuberance of Ivanhoe's language in promoting its Western Foreland discoveries betrays the confidence of a company that knew it could safely hold property to which it legally had no right. With stronger, more transparent enforcement of Congolese law and more stringent scrutiny of corporate conduct by Congolese and international authorities, foreign investment capital will learn that the path to success lies not in breaking the DRC's rules but in obeying them—and in putting sovereign control of the DRC's wealth in the hands of the public, not the powerful few.



## Recommendations

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### Ivanhoe Mines Ltd.

**Conduct a thorough internal investigation.** The board of directors of Ivanhoe Mines Ltd. should initiate an independent third-party investigation—preferably led by outside counsel with experience in cross-border corruption investigations—of its operations in the DRC, particularly its dealings with Théophas Mahuku and with respect to the Western Foreland Exploration Project, to ascertain whether Ivanhoe, its directors, officers, employees, or agents have participated in violations of the law, internal policies, or ethical standards. Appropriate remedial action should be implemented immediately, including appropriate measures with respect to any directors, officers, employees, or agents found to have breached the law, internal policies, or ethical standards. Results of the internal investigation should be submitted to relevant authorities.

**Review existing internal policies, procedures, and controls.** Conduct a clear-eyed assessment of Ivanhoe’s internal policies, procedures, and controls that are intended to comply with applicable anti-corruption laws and regulations, in particular Canada’s Corruption of Foreign Public Officials Act and the US’s Foreign Corrupt Practices Act,<sup>237, 238</sup> to ascertain whether they are sufficiently robust and appropriately reflect Ivanhoe’s “commitment to a culture of honesty, integrity, accountability, and respect for the communities in which the Company operates.”<sup>239</sup> Particular attention should be paid to controls and due diligence processes intended to mitigate risks related to business partners in high-risk jurisdictions, such as the DRC.

### Canada and the United States

**Investigate the parties and transactions revealed in this report and enforce relevant laws.** Given that Ivanhoe Mines Ltd. is incorporated in British Columbia and traded on the Toronto Stock Exchange, the British Columbia Securities Commission (BCSC) and the Ontario Securities Commission (OSC) should investigate the company, its directors, officers, employees, and agents for noncompliance with relevant securities disclosure laws and regulations and, if necessary, impose appropriate penalties. The Royal Canadian Mounted Police should investigate the parties and transactions revealed in this report for potential breaches of criminal law under the Corruption of Foreign Public Officials Act and other relevant laws.<sup>240</sup>

Ivanhoe Mines’ founder and Executive Co-Chairman Robert Friedland is reportedly a US person, and Ivanhoe Mines has at least one subsidiary registered in the US. The US Department of Justice and the US Department of the Treasury’s Financial Crimes Enforcement Network (FinCEN) should investigate the individuals, entities, and activities described in this report and pursue civil and criminal penalties under the Foreign Corrupt Practices Act and relevant anti-money laundering laws, as applicable.<sup>241</sup>

**Issue public advisories on the money laundering risks present in the Congolese mining sector.** FinCEN and the Financial Transactions and Reports Analysis Centre of Canada (FINTRAC) should issue public advisories to financial institutions warning of the risks for money laundering as it relates to corruption in the mining sector. In the US, this advisory could build upon an earlier advisory issued by FinCEN in June 2018 that highlighted the connection between corrupt senior foreign political figures and their enabling of human rights abuses and included an example of the “use of tax haven shell companies by [a] financial facilitator of [the] DRC president to move and launder stolen mining revenues.”<sup>242</sup> FINTRAC should consider issuing advisories beyond those, mirroring updates to FATF’s so-called grey and black lists.



**Impose targeted network sanctions.** The US and Canada should urgently investigate and, if appropriate, impose and implement coordinated and targeted actions pursuant to their anti-corruption sanctions authorities—the US’s Global Magnitsky sanctions under Executive Order 13818,<sup>243</sup> Canada’s Justice for Victims of Corrupt Foreign Officials Act,<sup>244</sup> and their respective DRC-specific sanctions authorities—on individuals and entities engaged in the activities described in this report.

## The DRC

**Investigate the findings presented in this report.** Congolese law enforcement should ensure that investigations free of outside interference are conducted into the questionable, if not illegal, conduct presented in this report, and, where appropriate, authorities should initiate proceedings if Congolese criminal statutes or regulations have been violated. Congolese authorities should also commit, in general, to diligently policing the mining sector to deter fraud and corruption in that economically vital sector.

**Audit the Ministry of Mines and the Mining Cadaster’s administration of the DRC’s mining title system.** This report spotlights repeated examples in which these government bodies apparently failed to enforce relevant laws and exercise their mandate to defend the DRC’s interest in the development and extraction of its natural wealth. Proper administration of the DRC’s system of mining titles will both help protect Congolese economic sovereignty and help ensure that this nation receives just compensation for supplying many of the prized commodities on which the rest of the world now increasingly depends.

**Replace any officials found to have failed in their duties of ensuring honest and effective government.** The apparent failures by the Ministry of Mines and the Mining Cadaster revealed by this report call for accountability. In the postwar era, oversight of the DRC’s mining sector has been in the hands of a small cadre of people. Turnover has been notably slow at the Ministry of Mines and the Mining Cadaster, where throughout much of the period discussed in this report, leadership has remained unchanged despite redrafted constitutions, multiple elections, and Cabinet reshuffles. New management could help prevent longstanding problems from passing undetected.

**Ensure that the public corporate registry is comprehensive, accurate, and subject to periodic external audit.** Public registries that include shareholder and beneficial ownership information can help improve corporate transparency, public oversight, and accountability. The Congolese government has created a searchable online public registry of corporate entities, but it does not yet appear to be fully functional. The government should ensure that the registry includes all corporate entities, that documentation is available for download, and that data is accurate, updated, and available to financial institutions, law enforcement, and the general public. To ensure the accuracy and comprehensiveness of the public corporate registry, the government should charge a reliable third-party entity with periodic audits of the public corporate registry using materials in possession of certain key ministries, such as certified corporate documentation held by the company registration office and other relevant entities within the Ministry of Justice, as well as tax records held by the Ministry of Finance.

**Bolster the independence of institutions charged with financial oversight, audits, and investigations.** In general terms, relevant authorities in the Congolese government should ensure that institutions with a critical role in the prevention of corruption and illicit financial activities have the ability to operate free from political influence and that they are, in practice, operating with integrity and without fear or favor. This report reveals circumstances in which independent government bodies, due to a range of factors, did not properly



exercise their mission in a manner that could have prevented some of the questionable activities described. Congolese authorities should determine the factors contributing to the failure by some bodies to exercise their statutory missions and consider whether new laws or administrative actions would be required to prevent comparable failures in the future.

## Financial institutions

### **Review transactions involving Ivanhoe and other individuals and entities mentioned in this report.**

The questionable events and activities documented in this report required financial transactions, including funds transfers, that transited the international banking system. Financial institutions should review the financial activities of the individuals and entities named in this report to identify any potentially suspicious behavior and submit suspicious transaction reports to the relevant FIUs, as appropriate.

**Review debt financing of mineral exploration.** Financial institutions and other firms required to have anti-money laundering and countering the financing of terrorism (AML/CFT) measures in place that took part in Ivanhoe's 2021 debt issuance should review concerns around corruption in mineral exploration licenses and consider legal review to assess whether any criminal conduct was involved in the debt issuance process to raise funding for exploration or mining concessions.

**Conduct enhanced due diligence.** Financial institutions should also carry out enhanced due diligence and monitoring to identify red flags and suspicious behavior indicative of bribery and corruption, particularly on accounts with a nexus to Congolese politically exposed persons (PEPs) or involving natural resource exploration and extraction. These institutions should determine the measures needed to mitigate the identified risks and submit suspicious transaction reports to local financial intelligence units, as appropriate.

**Conduct project financing transactional due diligence.** Firms looking to offer project financing products in the DRC should carry out enhanced due diligence and transactional due diligence on all parties to transactions to identify red flags or suspicious behavior indicative of bribery and corruption.



## Endnotes

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- 1 In its current form, Ivanhoe Mines Ltd. has been incorporated in British Columbia since September 11, 2012. See: British Columbia Registry Services, “Ivanhoe Mines Ltd. Notice of Articles,” Incorporation No. C0949887, June 29, 2022, available at: [www.orgbook.gov.bc.ca/entity/C0949887](http://www.orgbook.gov.bc.ca/entity/C0949887)
- 2 As of the close of trading on July 27, 2022, the company’s market capitalization stood at 9.1 billion Canadian dollars, or roughly \$7 billion. See: Yahoo! Finance, “Ivanhoe Mines Ltd. (IVN.TO),” available at: [finance.yahoo.com/quote/IVN.TO](http://finance.yahoo.com/quote/IVN.TO)
- 3 For a general presentation of the company’s current business, see the three-year history in the most recent annual report. See: Ivanhoe Mines Ltd., “Annual Information Form for the Year Ended December 31, 2021,” March 24, 2022, pp. 8-17, available at: [www.ivanhoemines.com/site/assets/files/5527/2022-03 - ivn\\_aif\\_2021\\_ivn\\_v8\\_final.pdf](http://www.ivanhoemines.com/site/assets/files/5527/2022-03 - ivn_aif_2021_ivn_v8_final.pdf)
- 4 Friedland was born in Chicago, Illinois, in August 1950. See: Jackie McNish, *The Big Score: Robert Friedland and the Voisey’s Bay Hustle*, Toronto: Double Day Canada, 1998, p. 12.
- 5 Friedland said in May 2022 that Ivanhoe Mines’ Kamo-a-Kakula project was “the most rapidly growing copper mine in the world.” See: Bloomberg, “Bloomberg Daybreak: Australia - Ivanhoe’s Friedland on DRC Copper Project, Clean Energy,” May 19, 2022, available at: [www.bloomberg.com/news/videos/2022-05-19/invanhoe-s-friedland-on-drc-copper-project-clean-energy-video](http://www.bloomberg.com/news/videos/2022-05-19/invanhoe-s-friedland-on-drc-copper-project-clean-energy-video) (0:22-0:24).
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- 34 Letter from African Minerals Corp Executive Vice President Hedley J. Clayton to Minister of Mines Kambale Kabila Mututulo, November 24, 1997.
- 35 Rebel forces entered the capital on May 17, 1997. That day, Laurent-Désiré Kabila, who was still in Lubumbashi, proclaimed himself president, although he was not officially sworn in until May 29, 1997. See:  
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- 38 See note 36.
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- 49 In 2003, Canada’s Tenke Mining Corp told the United Nations Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth of the DRC that the entirety of a \$50 million initial payment from a quarter-billion dollar contract signed with Laurent-Désiré Kabila had been paid to the DRC state mining company. A Congolese parliamentary inquiry later said that half of the payment had actually landed in a Rwandan bank account held in the name of the state enterprise Compagnie mixte d’import-export Ltd (Comiex), which was controlled by Kabila’s political organization, the Alliance des Forces Démocratiques pour la Libération du Congo (AFDL). Various sources have said that the account was personally controlled by Kabila and his associates. In its initial report in 2001, the UN Panel of Experts asserted that Comiex was owned by Laurent-Désiré Kabila, Economy Minister Victor Mpoyo, and others. Former Auditor General Mabi Mulumba told author Jason Stearns in 2007 that Comiex was “a private trust run by people close to President Kabila, but entirely created with state assets.” Tenke Mining’s corporate successor, Lundin Mining Corporation, did not respond to a request for comment from The Sentry. See: United Nations Security Council, “Letter dated 15 October 2002 from the Secretary-General addressed to the President of the Security Council,” S/2002/1146/Add.1, June 20, 2003, p. 6, available at: [search.archives.un.org/uploads/r/united-nations-archives/2/6/3/2633f9b65bd0bea7b9033602791da6a7abe4b48aaceef0a91d53be08335451b0/S-1096-0116-06-00001.pdf](http://search.archives.un.org/uploads/r/united-nations-archives/2/6/3/2633f9b65bd0bea7b9033602791da6a7abe4b48aaceef0a91d53be08335451b0/S-1096-0116-06-00001.pdf)
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- United Nations Panel of Experts, “Report of the Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth of the Democratic Republic of Congo,” S/2001/357, April 12, 2001, p. 7, available at: [www.globalsecurity.org/military/library/report/2001/357e.pdf](http://www.globalsecurity.org/military/library/report/2001/357e.pdf)
- Jason K. Stearns, *Dancing in the Glory of Monsters*, New York: Public Affairs Books, 2011, p. 291.
- 50 Dan Rather Reports, “All Mine,” HDNet/AXS TV, September 23, 2008, transcript available at: [www.nexis.com](http://www.nexis.com)
- 51 See note 43, pp. 2-11.
- 52 Jason K. Stearns, *Dancing in the Glory of Monsters*, New York: Public Affairs Books, 2011, pp. 181-200.



- 53 International Rescue Committee, “Mortality in the Democratic Republic of Congo: An Ongoing Crisis,” May 1, 2007, p. ii, available at: [www.rescue.org/report/mortality-democratic-republic-congo-ongoing-crisis](http://www.rescue.org/report/mortality-democratic-republic-congo-ongoing-crisis)
- 54 Ivanhoe Nickel & Platinum Ltd. “Consolidated Financial Statements of Ivanhoe Nickel & Platinum Ltd. December 31, 2009 and 2008,” p. 17, available at: [ivanhoemines.com/site/assets/files/1838/2009q4.pdf](http://ivanhoemines.com/site/assets/files/1838/2009q4.pdf)
- 55 See note 52, pp. 307-309.
- 56 Tim Sullivan, “Congo’s Parliament Approves Joseph Kabila as New Leader,” Associated Press, January 24, 2001.
- 57 Democratic Republic of Congo, Loi n° 007/2002 du 11 juillet 2002 portant Code minier (Law n° 007/2002 of July 11, 2002 Creating the Mining Code), July 11, 2002, preamble, tit. III, available at: [leganet.cd/Legislation/Droit\\_economique/Code\\_Minier/cd-codeminier.pdf](http://leganet.cd/Legislation/Droit_economique/Code_Minier/cd-codeminier.pdf)
- 58 The Carter Center, “A State Affair: Privatizing Congo’s Copper Sector,” November 2017, p. 5, available at: [www.cartercenter.org/resources/pdfs/news/peace\\_publications/democracy/congo-report-carter-center-nov-2017.pdf](http://www.cartercenter.org/resources/pdfs/news/peace_publications/democracy/congo-report-carter-center-nov-2017.pdf)
- 59 See note 54, p. 17.
- 60 See note 57, tit. XVI ch. IV art. 337.
- 61 While the committee’s 2007 findings contained errors, they were nevertheless the official and public position of a government review. For example, they consistently misspelled the name of the Anglo American subsidiary Anmercosa as “Amnercosa.” In another instance, the version of the findings published in the government’s official journal said the Lufira concession contained five exclusive exploration zones, but the document then proceeded to identify only four. See:  
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- 62 Office of the President of the Democratic Republic of Congo, “Décret n° 05/093 du 14 septembre 2005 portant nomination des membres du bureau de la Commission de validation des droits miniers et de carrières” (Decree 05/093 of September 14, 2005 Proclaiming the Appointment of the Members of the Secretariat of the Mining and Quarry Rights Validation Committee), September 14, 2005, in Journal Officiel de la République démocratique du Congo (Official Journal of the Democratic Republic of Congo), Première partie—n° 19, October 1, 2005, col. 7.
- 63 In 1982, for example, Leliel Balanda was a member of the 34<sup>th</sup> session of the UN International Law Commission. See: United Nations International Law Commission, “Thirty-fourth Session (1982): Officers and Members,” available at: [legal.un.org/ilc/sessions/34/members.shtml](http://legal.un.org/ilc/sessions/34/members.shtml)
- 64 The name Anmercosa was apparently used by multiple Anglo American subsidiaries. In 2004, the mining company Mwana Africa bought Anmercosa Exploration Congo from Anglo American. See:  
Reuters, “Congo-Democratic/Mining (Factbox) =2,” November 3, 2007, available at: [www.reuters.com/article/congo-democratic-mining-2/congo-democratic-mining-2-idUSL0325871320071103](http://www.reuters.com/article/congo-democratic-mining-2/congo-democratic-mining-2-idUSL0325871320071103)  
Democratic Republic of Congo Ministry of Mines, “Guide of Mining Investor,” June 2003, p. 28, available at: [www.miningcongo.cd/pdf\\_divers/guide\\_of\\_mining\\_investor.pdf](http://www.miningcongo.cd/pdf_divers/guide_of_mining_investor.pdf)
- 65 See note 61, col. 33.
- 66 See note 61, cols. 33-34.
- 67 See note 61, col. 34.
- 68 Reuters, “Congo-Democratic/Mining (Factbox) =2,” November 3, 2007, available at: [www.reuters.com/article/congo-democratic-mining-2/congo-democratic-mining-2-idUSL0325871320071103](http://www.reuters.com/article/congo-democratic-mining-2/congo-democratic-mining-2-idUSL0325871320071103)
- 69 See note 61, col. 34.
- 70 Democratic Republic of Congo Cadastre minier (Mining Cadaster), “Certificat de recherches” (Exploration Certificate), N° CAMI/CR/165/2003, March 4, 2005.
- 71 See note 39, p. 17.
- 72 Asa Resource Group plc was previously known as Mwana Africa plc. See the company’s website: [www.asaresource.co.uk](http://www.asaresource.co.uk)
- 73 Response from Jean Félix Mupande to The Sentry, November 28, 2022.



- 74 Response from Jean Félix Mupande to The Sentry, November 28, 2022.
- 75 See note 61, cols. 35-36.
- 76 See note 61, col. 36.
- 77 Letter from Chantal Lembo Bashizi, administrative director, and Jean-Félix Mupande Kapwa, director general of the Mining Cadaster of the Democratic Republic of Congo, N° Réf./CAMI/DG/1265/2007, June 1, 2007.
- 78 Letter from Minister of Mines Martin Kabwelulu to the Mining Cadaster director general, CAB.MIN/MINES/01/640/2007, August 3, 2007.
- 79 Ministry of Mines of the Democratic Republic of Congo, “Arrêté ministériel n°3155.CAB.MIN/MINES/01/07 du 03 août 2007 portant non-prorogation de la mission de la commission de validation des droits miniers et des carrières” (Ministerial Decree n°3155.CAB.MIN/MINES/01/07 of August 3, 2007 Proclaiming the Non-Extension of the Mandate of the Mining and Quarry Rights Validation Committee), n°3155.CAB.MIN/MINES/01/07, August 3, 2007.
- 80 OreWin, “Kamoa Copper SA: Kamoa-Kakula Project, Kamoa-Kakula Integrated Development Plan 2019 March 2019 Job no. 18006,” March 22, 2019, p. 76, available at: [www.sedar.com](http://www.sedar.com)
- 81 Zijin Mining is a state-controlled non-ferrous miner from China’s Fujian province, the largest shareholder of which is Minxi Xinghang State-owned Assets Investment Co., Ltd. Its chairman, Chen Jinghe, joined the board of Ivanhoe in 2019. See:  
Note 3, p. 9.  
Zijin Mining Group Company Limited, “Annual Report 2021,” June 20, 2022, pp. 2, 102, available at: [www.zijinmining.com/upload/file/2019/05/15/f4f97a694fb7431984ee2f562183ae16.pdf](http://www.zijinmining.com/upload/file/2019/05/15/f4f97a694fb7431984ee2f562183ae16.pdf)
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- 83 Le Potentiel, “Le pays s’oppose à la transaction aux termes de laquelle la société Zijin acquiert 49,50% des actions de Ivanhoe Mines» (The Nation Opposes the Transaction According to Which the Company Zijin is Acquiring 49.5% of the Company Ivanhoe Mines), May 30, 2015, available at: [fr.allafrica.com/stories/201505310015.html](http://fr.allafrica.com/stories/201505310015.html)
- 84 Ivanhoe says it issued a statement on June 9, 2016, but the DRC ministers of Mines and Portfolio issued another one on June 16, causing Ivanhoe to reiterate their June 9 statement. See:  
Ivanhoe Mines Ltd, “Ivanhoe Mines Addresses Concern of Two D.R. Congo Ministers and Reiterates Commitment to Negotiating an Agreement for the DRC Government to Acquire up to a Further 15% Interest in the Kamoa Copper Project,” Press Release, June 17, 2015, available at: [www.ivanhoemines.com/site/assets/files/2291/2015-06-17\\_nr.pdf](http://www.ivanhoemines.com/site/assets/files/2291/2015-06-17_nr.pdf)
- 85 Ivanhoe Mines, “Ivanhoe Mines and Zijin Mining Group Extend Completion Date for Zijin’s Planned Investment in the Kamoa Copper Project,” News Release, August 4, 2015, available at [www.ivanhoemines.com/news/2015/ivanhoe-mines-and-zijin-mining-group-extend-completion-date-for-zijins-planned-investment-in-the-kamoa-copper-project/](http://www.ivanhoemines.com/news/2015/ivanhoe-mines-and-zijin-mining-group-extend-completion-date-for-zijins-planned-investment-in-the-kamoa-copper-project/)
- 86 Mines Minister Kabwelulu and Portfolio Minister Louise Munga Mesozi said the deal “should be suspended” pending the talks on increasing the government’s stake in the project. Another government statement said there should be a due diligence review on the Congolese subsidiary. See:  
Note 84.  
Reuters, “Congo Says Ivanhoe Mines’ Kamoa Deal Should Be Suspended,” June 15, 2015, available at: [www.reuters.com/article/ivanhoe-mines-zijin-congodemocratic-idUSL5N0Z24JA20150616](http://www.reuters.com/article/ivanhoe-mines-zijin-congodemocratic-idUSL5N0Z24JA20150616)
- 87 Ivanhoe Mines, “Ivanhoe Mines Announces Financial Results and Review of Operations for the Second Quarter of 2015,” News Release, August 12, 2015, available at [ivanhoemines.com/news/2015/ivanhoe-mines-announces-financial-results-and-review-of-operations-for-the-second-quarter-of-2015/](http://ivanhoemines.com/news/2015/ivanhoe-mines-announces-financial-results-and-review-of-operations-for-the-second-quarter-of-2015/)
- 88 Thomas Wilson, “Ivanhoe’s Success Follows Deals With Kabila’s Brother,” Bloomberg, July 17, 2017, available at: [www.bloomberg.com/news/articles/2017-07-17/ivanhoe-s-congo-success-follows-deals-with-president-s-brother](http://www.bloomberg.com/news/articles/2017-07-17/ivanhoe-s-congo-success-follows-deals-with-president-s-brother)
- 89 Congo Research Group and Pulitzer Center on Crisis Reporting, “All the President’s Wealth,” July 2017, p. 26, available at: [legacy.pulitzercenter.org/sites/default/files/all-the-presidents-wealth-eng.pdf](http://legacy.pulitzercenter.org/sites/default/files/all-the-presidents-wealth-eng.pdf)



- 90 The day of the announcement, Ivanhoe's share price closed more than 25% up on the Toronto Stock Exchange, but within a week, it had given up those gains. Bloomberg's report was first published at 3:09 pm EDT on September 22, 2015, leaving nearly an hour before the close of trading at 4 pm. By 3:28 pm, shares were up 15%. At the close, the price stood at 0.89 Canadian dollars after having settled at CA\$0.71 the day before. By September 28, 2015, the share price was at CA\$0.69, below the September 21, 2015, close. See:  
 TMX Group Limited, "Trading Hours," available at: [tsx.com/trading/calendars-and-trading-hours/trading-hours](https://www.tsx.com/trading/calendars-and-trading-hours/trading-hours)  
 Tom Wilson, "Congo Approves Ivanhoe Kamoia Stake Sale to Zijin, Ending Dispute," Bloomberg, September 22, 2015, available at: [www.bloomberg.com/news/articles/2015-09-22/congo-approves-ivanhoe-sale-of-49-5-kamoia-stake-to-zijin](https://www.bloomberg.com/news/articles/2015-09-22/congo-approves-ivanhoe-sale-of-49-5-kamoia-stake-to-zijin)
- 91 See note 42.
- 92 This work has included underground development involving blasting and tunneling, as well as a second contract for a 700-meter box cut at the Kakula site. Promotional materials released through May of 2020 show JMMC staff at Kakula installing water pipes, adjusting drills, reviewing construction plans, and examining ore samples. See:  
 Ivanhoe Mines, "First Blast Marks Start of Development of Twin Declines at Kakula Copper Discovery to Provide Access to Ultra-High-Grade Resources," News Release, November 21, 2017, available at: [ivanhoemines.com/news/2017/first-blast-marks-start-of-development-of-twin-declines-at-kakula-copper-discovery-to-provide-access-to-ultra-high-grade/](https://ivanhoemines.com/news/2017/first-blast-marks-start-of-development-of-twin-declines-at-kakula-copper-discovery-to-provide-access-to-ultra-high-grade/)  
 Ivanhoe Mines, "Annual Information Form for the Year Ended December 31, 2018," March 31, 2019, p. 32, available at: [www.ivanhoemines.com/site/assets/files/4236/ivn\\_aif\\_2018.pdf](https://www.ivanhoemines.com/site/assets/files/4236/ivn_aif_2018.pdf)  
 Ivanhoe Mines, "Progress Gallery," April 2018, pp. 3-4, available at: [ivanhoemines.com/site/assets/files/3772/2018-04-ivn-progress-pg.pdf](https://ivanhoemines.com/site/assets/files/3772/2018-04-ivn-progress-pg.pdf)  
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 Ivanhoe Mines, "Global Metals, Mining & Steel Conference," presentation, May 2020, p. 16, available at: [ivanhoemines.com/site/assets/files/4797/ivanhoe\\_mines\\_baml\\_may2020.pdf](https://ivanhoemines.com/site/assets/files/4797/ivanhoe_mines_baml_may2020.pdf)
- 93 Ivanhoe Mines, "Ivanhoe Mines Provides Interim Update on Discussions With the DRC Government About the Zijin Transaction and the DRC's Acquisition of up to a Further 15% Interest in the Kamoia Copper Project," Press Release, June 9, 2015, available at: [www.ivanhoemines.com/news/2015/ivanhoe-mines-provides-interim-update-on-discussions-with-the-drc-government-about-the-zijin-transaction-and-the-drcs/](https://www.ivanhoemines.com/news/2015/ivanhoe-mines-provides-interim-update-on-discussions-with-the-drc-government-about-the-zijin-transaction-and-the-drcs/)
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- 95 Ivanhoe Mines, "Ivanhoe Mines Welcomes DR Congo Government's Support for Ivanhoe's Transaction With Zijin Mining," Press Release, September 23, 2015, available at: [www.ivanhoemines.com/site/assets/files/2273/2015-09-23\\_nr.pdf](https://www.ivanhoemines.com/site/assets/files/2273/2015-09-23_nr.pdf)
- 96 Ivanhoe Mines Ltd, "Ivanhoe Mines and Zijin Mining Sign Landmark Agreement to Transfer an Additional 15% Interest in the Kamoia-Kakula Copper Project to the Government of the Democratic Republic of Congo," Press Release, November 18, 2016, available at: [www.ivanhoemines.com/news/2016/ivanhoe-mines-A0nd-zijin-mining-sign-landmark-A0greement-to-transfer-an-additional-15-interest-in-the-kamoia-kakula-copper-project/](https://www.ivanhoemines.com/news/2016/ivanhoe-mines-A0nd-zijin-mining-sign-landmark-A0greement-to-transfer-an-additional-15-interest-in-the-kamoia-kakula-copper-project/)
- 97 Ivanhoe Mines, "Annual Information Form for the Year Ended December 31, 2016," March 28, 2017, p. 97, available at [ivanhoemines.com/site/assets/files/2592/2016-annual-information-form.pdf](https://ivanhoemines.com/site/assets/files/2592/2016-annual-information-form.pdf)
- 98 See note 80, p. 76.
- 99 Response from Ivanhoe Mines Ltd. to The Sentry, November 7, 2022.
- 100 See note 4, p. 6.
- 101 The Kamoia Copper SA production licenses are PE12873, PE13025 and PE13026. Under the 2002 mining code, which was then in effect, such licenses were granted for an initial period of thirty years, renewable thereafter for 15-year periods for the life of the mine. License data are published by the DRC Mining Cadaster at [drclicences.cami.cd](https://drclicences.cami.cd). See note 3, p. 24.
- 102 See note 57, tit. III ch. II art. 67.
- 103 Ivanhoe currently owns 49.5% of the Barbados entity Kamoia Holding Ltd, which in turn holds 80% of Kamoia Copper SA, giving Ivanhoe a 39.6% indirect stake. See note 3, pp. 7, 24.



- 104 See note 3, pp. 34-35.
- 105 See note 3, p. 8.
- 106 See note 4, p. 30.
- 107 Ivanhoe Mines, “Annual Information Form for the Year Ended Dec 31, 2019,” March 30, 2020, p. 71, available at: [www.ivanhoemines.com/site/assets/files/4727/20200330\\_aif\\_2019\\_final-1.pdf](http://www.ivanhoemines.com/site/assets/files/4727/20200330_aif_2019_final-1.pdf)
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- 109 Ivanhoe Mines, “Ivanhoe Mines Announces the Makoko Copper Discovery on Its 100%-Owned Western Foreland Exploration Licenses Near Kamoa-Kakula in the Democratic Republic of Congo,” News Release, October 1, 2018, available at: [www.ivanhoemines.com/news/2018/ivanhoe-mines-announces-the-makoko-copper-discovery-on-its-100-owned-western-foreland-exploration-licences-near-kamoa-kakula-in/](http://www.ivanhoemines.com/news/2018/ivanhoe-mines-announces-the-makoko-copper-discovery-on-its-100-owned-western-foreland-exploration-licences-near-kamoa-kakula-in/)
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- 112 See note 109.
- 113 Guiomar Calvo, Gavin Mudd, Alicia Valero, and Antonio Valero, “Decreasing Ore Grades in Global Metallic Mining: A Theoretical Issue or a Global Reality?,” Resources, November 7, 2016, pp. 5, 36, available at: [doi.org/10.3390/resources5040036](https://doi.org/10.3390/resources5040036)
- 114 In a news release, the company said, “The current implied strike length of the Kamoa North Bonanza Zone is 2.7 kilometers. However, the east-west-striking fault structure associated with the Kamoa North Bonanza Zone can be traced for up to 20 kilometers onto the adjacent Western Foreland exploration licenses that are 100%-owned by Ivanhoe Mines.” See:  
Ivanhoe Mines, “Ivanhoe Updates Kakula Copper Mine Construction Progress,” News Release, June 17, 2019, available at: [www.ivanhoemines.com/news/2019/ivanhoe-updates-kakula-copper-mine-construction-progress/](http://www.ivanhoemines.com/news/2019/ivanhoe-updates-kakula-copper-mine-construction-progress/)
- 115 See note 110.
- 116 Mining.com, “The Top 50 Biggest Mining Companies in the World,” July 8, 2022, available at: [www.mining.com/top-50-biggest-mining-companies/](http://www.mining.com/top-50-biggest-mining-companies/)
- 117 Thomas Biesheuvel and James Attwood, “BHP Discussing Congo Copper Deal in Shift of Strategy,” Bloomberg, October 4, 2021, available at: [www.bloomberg.com/news/articles/2021-10-04/bhp-said-to-discuss-congo-copper-deal-with-billionaire-friedland](http://www.bloomberg.com/news/articles/2021-10-04/bhp-said-to-discuss-congo-copper-deal-with-billionaire-friedland)
- 118 “La durée du Permis de Recherches et de [...] b) cinq ans renouvelable deux fois pour une durée de cinq ans à chaque renouvellement pour les autres substances “ (The duration of the exploration licenses for [...] b) five years renewable twice for a duration of five years at each renewal for other [non-gemstone] substances.) See note 57, tit. III ch. 1 art. 52.
- 119 In its annual report for 2018, Ivanhoe identified nine exploration licenses as part of the Western Foreland project: PR704, PR706, PR708, PR711, PR712, PR713, PR714, PR12336, and PR12518. According to data published by the Mining Cadaster, all but PR12336 and PR12518 were initially granted in 2003 (see data published at [drclicences.cami.cd](http://drclicences.cami.cd)). This is consistent with a Mining Cadaster exploration certificate issued for PR712 reviewed by The Sentry. However, a certificate issued for PR713 is dated March 4, 2005, yet gives its period of validity as November 11, 2003, and November 10, 2008, perhaps reflecting the territorial dispute with Anglo American described earlier in this report. In August of 2020, Ivanhoe disclosed that it had obtained eight more exploration licenses which it included in the Western Foreland project: PR14543 – PR14550. Cadastral data indicate this second batch was granted in 2019. As a whole, the 17 Western Foreland licenses cover a total of 2,833 quadrangles, which is equivalent to 2,403.9 square kilometers (928.2 square miles). (One “carré,” or quadrangle, is equal to 84.955 hectares, which is 210 acres, or about 0.85 square kilometers.) See:



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- Democratic Republic of Congo Cadastre minier (Mining Cadaster), “Certificat de recherches” (Exploration Certificate), N° CAMI/CR/166/2003, November 11, 2003.
- Democratic Republic of Congo Cadastre minier (Mining Cadaster), “Certificat de recherches” (Exploration Certificate), N° CAMI/CR/165/2003, March 4, 2005.
- Ivanhoe Mines, “Development of the Flagship Kakula Copper Mine Continues to Exceed Expectations; With Initial Production Well on Track for Third Quarter of 2021,” News Release, August 10, 2020, available at: [www.ivanhoemines.com/news/2020/development-of-the-flagship-kakula-copper-mine-continues-to-exceed-expectations-with-initial-production-well-on-track-for-third/](http://www.ivanhoemines.com/news/2020/development-of-the-flagship-kakula-copper-mine-continues-to-exceed-expectations-with-initial-production-well-on-track-for-third/)
- Democratic Republic of Congo, Décret n° 038/2003 du 26 mars 2003 portant Règlement minier tel que modifié et complété par le décret n° 18/024 du 8 juin 2018 (Decree n° 038/2003 of March 25, 2003, Bearing Mining Regulations as Modified and Completed by Decree n° 18/024 of June 8, 2018), tit. III ch. II art. 39, in Journal Officiel de la République démocratique du Congo, special edition, June 12, 2018.
- 120 On this point, the Congolese mining codes of 2002 and 2018 are in agreement. “Dans ce cas, le Périmètre couvert par le Permis de Recherches est libre de tout droit à compter de la date de l’expiration du Permis. A l’expiration du Permis de Recherches, le Cadastre Minier notifie immédiatement au titulaire l’expiration de son titre avec copie à la Direction de Géologie” (In this case, the perimeter covered by the exploration license is free of all claims from the date of the license’s expiration. Upon the exploration license’s expiration, the Mining Cadaster immediately notifies the title holder of the expiration of the title, copying the Geology Directorate.) See:  
Note 57, tit. III ch. 1 art. 61.  
Democratic Republic of Congo, Loi n° 007/2002 du 11 juillet 2002 portant Code minier, telle que modifiée et complétée par la Loi n° 18/001 du 09 mars 2018 (Law n° 007/2002 of July 11, 2002 Bearing the Mining Code, Such as Modified and Completed by Law n° 18/001 of March 9, 2018), tit. III ch. 1 art. 61, in Journal Officiel de la République démocratique du Congo, May 3, 2018, available at: [congominer.org/reports/1844-journal-officiel\\_-code-minier-reviser-par-la-loi-n-18-001-du-09-mars-2018-textes-coordonnes](http://congominer.org/reports/1844-journal-officiel_-code-minier-reviser-par-la-loi-n-18-001-du-09-mars-2018-textes-coordonnes)
- 121 “Mineral rights are extinguished through [...] expiration.” See:  
Democratic Republic of Congo, Loi n° 007/2002 du 11 juillet 2002 portant Code minier, telle que modifiée et complétée par la Loi n° 18/001 du 09 mars 2018 (Law n° 007/2002 of July 11, 2002 Bearing the Mining Code, Such as Modified and Completed by Law n° 18/001 of March 9, 2018), tit. II ch. III art. 48 ter, in Journal Officiel de la République démocratique du Congo, May 3, 2018, available at: [congominer.org/reports/1844-journal-officiel\\_-code-minier-reviser-par-la-loi-n-18-001-du-09-mars-2018-textes-coordonnes](http://congominer.org/reports/1844-journal-officiel_-code-minier-reviser-par-la-loi-n-18-001-du-09-mars-2018-textes-coordonnes)
- 122 See note 97, p. 63.
- 123 Mining Cadaster data indicates that PR704, PR706, PR708, and PR711-PR714 were granted in 2003 and—as of their most recent renewals—covered a total of 646 quadrangles, or 548.2 square kilometers, amounting to 22.8% of the Western Foreland’s 2,403.9 square kilometers. See:  
Trimble Landfolio, “DRC Mining Cadastre Map Portal,” available at: [drcllicences.cami.cd](http://drcllicences.cami.cd)
- 124 Ivanhoe said in October 2018 that Western Foreland exploration “began in July 2017” with the construction of access roads, bridges, and camp facilities. However, in its 2016 annual report, it said it had completed diamond drill holes at PR708 and PR714, planning to return to exploration two years later in 2017. See note 109 and note 97, p. 63.
- 125 According to Mining Cadaster data noted by The Sentry in 2020, PR708 was to expire on May 9 of that year. For the location of the Makoko deposit within this license, see note 107, p. 70.
- 126 The Kiala target falls within PR706, while the Mbali target overlapped with PR711, and the Kamilli target overlapped with both PR711 and PR712. See:  
Ivanhoe Mines, “Management’s Discussion and Analysis for the Three and Nine Months Ended September 30, 2018,” November 8, 2018, p. 17 fig. 8, available at [www.sedar.com](http://www.sedar.com)
- 127 Mining Cadaster data indicates that PR711 and PR712 were due to expire November 9, 2018. As shown later in the report, Ivanhoe certainly treated this date like a deadline.



- 128 Ivanhoe Mines, “Annual Information Form for the Year Ended December 31, 2020,” March 5, 2021, p. 78, available at: [ivanhoemines.com/site/assets/files/5205/20210308-ivn-aif-2020-final.pdf](http://ivanhoemines.com/site/assets/files/5205/20210308-ivn-aif-2020-final.pdf)
- 129 Ivanhoe Mines, “Ivanhoe Mines Issues Q1 Financial Results and Review of Mine Construction Progress and Exploration Activities,” News Release, May 13, 2021, available at: [ivanhoemines.com/news/2021/ivanhoe-mines-issues-q1-financial-results-and-review-of-mine-construction-progress-and-exploration-activities/](http://ivanhoemines.com/news/2021/ivanhoe-mines-issues-q1-financial-results-and-review-of-mine-construction-progress-and-exploration-activities/)
- 130 Ivanhoe Mines, “Management’s Discussion and Analysis for the Three Months Ended March 31, 2022,” May 8, 2022, p. 30, available at: [ivanhoemines.com/site/assets/files/5593/q1\\_mda\\_march\\_31\\_2022.pdf](http://ivanhoemines.com/site/assets/files/5593/q1_mda_march_31_2022.pdf)
- 131 Cloete joined Ivanhoe in 2006, became chief financial officer in 2009, and became president in 2020. See: Ivanhoe Mines, Marna Cloete executive profile, available at: [www.ivanhoemines.com/about/executive-management/](http://www.ivanhoemines.com/about/executive-management/)
- 132 See note 9.
- 133 See note 89, p. 23.
- 134 “The members of this family had to find something to do, a way to live, and at that moment they would ask me: ‘Théo, can we create a company?’” See note 9.
- 135 See note 89, p. 23.
- 136 See note 9.
- 137 See note 9.
- 138 As of 2014, Cosha itself was also jointly owned by Zoé Kabila and Mahuku. See: Cosha Investment, “Cosha Investment société à responsabilité limitée. Statuts Harmonisés” (Cosha Investment Limited Liability Corporation Harmonized Articles of Incorporation), August 2014.
- 139 Katanga Premier, “Katanga Premier SARL Statuts Harmonisés” (Katanga Premier SARL Harmonized Articles of Incorporation), September 3, 2014.
- 140 Nunez has the surname of his great grandfather Désiré Kabila Taratibu Obashikilwe, often simply known as Taratibu. See: Erik Kennes in collaboration with Munkana N’Ge, *Essai biographique sur Laurent Désiré Kabila (Biographical Essay on Laurent-Désiré Kabila)*, Paris, L’Harmattan: 2003, p. 14.
- 141 In November 2016, Zoé Kabila’s company Cosha Investment exited GICC’s share capital, while Mahuku personally divested from Katanga Premier. But on the same day Mahuku exited Katanga Premier, he simultaneously split ownership of Tanga Logistics & Mining, the former Katanga Premier property, between himself and Zoé Kabila’s children, with Nunez and Nefertiti together holding 60% of TLM while Mahuku kept the remaining 40%. Furthermore, incorporation records show that, as of January 2017, Mahuku remained general manager of Cosha Investment, of which he personally owned 10% as of 2014. See: Cosha Investment, “Cosha Investment SARL. Procès-verbal de l’assemblée générale extraordinaire du 21/11/2016” (Cosha Investment SARL Minutes of Extraordinary Shareholder Meeting of November 21, 2016), November 21, 2016. Katanga Premier, “Katanga Premier SARL Procès-verbal de l’assemblée générale extraordinaire du 23/11/2016” (Katanga Premier. Minutes of the Extraordinary Shareholder Meeting of November 23, 2016. Guichet unique de création d’entreprise, Ministry of Justice, “Déclaration de modification de la personne morale. Cosha Investment SARL” (Moral Person Modification Statement, Cosha Investment SARL), January 6, 2017.
- 142 Moto Goldmines Limited, “Moto Goldmines Agrees to Increase Interest in the Moto Gold Project and to Placement to Sam Jonah,” December 31, 2007, available at: [web.archive.org/web/20180704230936/http://www.marketwired.com/press-release/moto-goldmines-agrees-increase-interest-moto-gold-project-placement-sam-jonah-806434.htm](http://web.archive.org/web/20180704230936/http://www.marketwired.com/press-release/moto-goldmines-agrees-increase-interest-moto-gold-project-placement-sam-jonah-806434.htm)
- 143 See note 9.
- 144 GICC’s stake in Moto Goldmines was worth \$4.4 million when the company was acquired by Randgold Resources and AngloGold Ashanti in 2009. See note 9.
- 145 See note 9.
- 146 These early relationships included Ivanhoe, which in 2011 sold GICC a mining project near the Zambian border that the company again turned into a payday in partnership with foreign mining companies. See note 88.



- 147 Available Mining Cadaster data indicates that PR711-PR713 were set to expire on November 9, 2018. See: Trimble Landfolio, “DRC Mining Cadastre Map Portal,” available at: [drclicences.cami.cd](http://drclicences.cami.cd)  
Magharibi Mining, “Magharibi Mining Société anonyme unipersonnelle avec conseil d’administration au capital social de cinquante mille dollars des Etats-Unis d’Amérique (50.000 USD). Statuts.” (Magharibi Mining: Single-Person Limited Company With Board of Directors and Fifty Thousand United States of America Dollars (\$50,000) in Corporate Capital. Articles of Incorporation), August 31, 2018.
- 148 Gabriel Kazadi Muteba appears on US Embassy in Kinshasa’s 2012 list of known legal practitioners. He worked at the Lubumbashi offices of Emery Mukendi Wafwana & Associates. See:  
United States Department of State, “Consular Section American Embassy Kinshasa Democratic Republic of the Congo List of Attorneys,” February 2012, pp. 3-4, available at:  
[web.archive.org/web/20170215135830/http://photos.state.gov:80/libraries/congo/76240/pdfs/ATTORNEY\\_LIST\\_2012.pdf](http://web.archive.org/web/20170215135830/http://photos.state.gov:80/libraries/congo/76240/pdfs/ATTORNEY_LIST_2012.pdf)
- 149 According to the Carter Center, Emery Mukendi Wafwana & Associates was the only firm from which the Kabila government accepted legal advice during a major review of state mining contracts in 2007. See note 58, p. 33.
- 150 On September 26, 2018, Rawbank acknowledged the receipt of \$50,000 in an account opened in the name of Magharibi Mining. See:  
Rawbank, “Attestation du dépôt de capital social” (Confirmation of Deposit of Corporate Capital), September 26, 2018.
- 151 Magharibi Mining, “Magharibi Mining Société anonyme unipersonnelle avec conseil d’administration au capital social de cinquante mille dollars des Etats-Unis d’Amérique (50.000 USD). Statuts.” (Magharibi Mining: Single-Person Limited Company With Board of Directors and Fifty Thousand United States of America Dollars (\$50,000) in Corporate Capital. Articles of Incorporation), August 31, 2018.
- 152 Magharibi’s articles of incorporation were apparently drafted so hastily that stray editing comments still appeared in the notarized version. On page three, the following text appears: “Réponse : Tu ne puis avoir un PCA avec un PDG. Soit un CA avec PCA avec un DG, soit un CA avec un PDG qui concentre les pouvoirs du PCA et du DG” (Answer: You cannot have a chairman of the board and a CEO. Either a board with chairman and general manager or a CEO who unifies the powers of the chairman and general manager). See note 151.
- 153 Among the other formalities Kazadi saw to were:  
September 29, 2018: The appointment of Magharibi’s board of directors.  
October 5: The notarization of the company’s articles of incorporation and the transcript of Cloete’s first official actions, as well as the designation of company accountants.  
October 10: The company’s entry into the Justice Ministry’s corporate registry, as well is its registration at the Labor Ministry’s vocational training institute, known as the Institut national de reparation professionnelle.  
October 11: The assignment of a national identification number by the Ministry of Economy.  
October 15: The signing of a contract for the transfer of three exploration licenses from Ivanhoe Mines Exploration DRC SARL, another of Ivanhoe’s Congolese subsidiaries. (Contracts for the transfer or four other Ivanhoe Mines Exploration licenses to G12 Enterprise SARL)  
October 19: The assignment of an income tax identification number.  
October 21: The authorization from Cloete for a capital increase, transfer of 90% of Magharibi’s shares to Ivanhoe and 10% to Théophas Mahuku, authorization to authenticate transfer contracts, depositing of board minutes at the court of commerce, and publication in the official journal.  
October 22: The adoption of board recommendations and the approval of capital increase.  
October 26: The submission of exploration license transfer applications to Ministry of Mines.  
See:  
Magharibi Mining, “Procès-verbal des décisions de l’associé unique tenant lieu d’assemblée générale constitutive de la société Magharibi Mining SA” (Minutes of Decisions by the Sole Shareholder in Lieu of a Founding Shareholder Meeting of the Company Magharibi Mining SA), September 29, 2018.  
“Acte Notarié N°49237” (Notarized Statement n° 49237), October 5, 2018 attached to Magharibi’s August 31, 2018,



articles of incorporation.

Guichet unique de création d'entreprise, Ministry of Justice, "Déclaration de constitution de personne morale. CD/LSH/RCCM/18-B-00392" (Moral Person Formation Statement), October 10, 2018.

Ministry of Labor Institut national de préparation professionnelle (National Professional Training Institute), "Certificat d'immatriculation à l'INPP N° DP-L'SHI/5766/2018" (INPP Registration Certificate n° DP-L'SHI/5766/2018), October 10, 2018.

Ministry of National Economy, "Identification Nationale 6-128-N38689W" (National Identification 6-128-N38689W), October 11, 2018.

Ministry of Mines, "Arrêté ministériel n°0864/CAB.MIN/MINES/01/2018 du 8 Nov 2018 portant approbation de la cession total du permis de recherches n° 711 de la société Ivanhoe Mines Exploration DRC SARL au bénéfice de la société Magharibi Mining SAU" (Ministerial Decree n° 0864/CAB.MIN/MINES/01/2018 of November 8, 2018 Approving the Total Transfer of Exploration License n° 711 From the Company Ivanhoe Mines Exploration DRC ARL in Favor of the Company Magharibi Mining SAU), November 8, 2018, available at: [mines-rdc.cd/fr/arretes](http://mines-rdc.cd/fr/arretes)

Ministry of Mines, "Arrêté ministériel n° 0866/CAB.MIN/MINES/01/2018 du 8 Nov 2018 portant approbation de la cession total du permis de recherches n° 712 de la société Ivanhoe Mines Exploration DRC SARL au bénéfice de la société Magharibi Mining SAU" (Ministerial Decree n° 0866/CAB.MIN/MINES/01/2018 of November 8, 2018 Approving the Total Transfer of Exploration License n° 712 From the Company Ivanhoe Mines Exploration DRC ARL in Favor of the Company Magharibi Mining SAU), November 8, 2018, available at: [mines-rdc.cd/fr/arretes](http://mines-rdc.cd/fr/arretes)

Ministry of Mines, "Arrêté ministériel n° 0865/CAB.MIN/MINES/01/2018" du 8 Nov 2018 portant approbation de la cession total du permis de recherches n° 713 de la société Ivanhoe Mines Exploration DRC SARL au bénéfice de la société Magharibi Mining SAU" (Ministerial Decree n° 0865/CAB.MIN/MINES/01/2018 of November 8, 2018 Approving the Total Transfer of Exploration License n° 713 From the Company Ivanhoe Mines Exploration DRC ARL in Favor of the Company Magharibi Mining SAU), November 8, 2018, available at: [mines-rdc.cd/fr/arretes](http://mines-rdc.cd/fr/arretes)

Ministry of Mines, "Arrêté ministériel n° 0868/CAB.MIN/MINES/01/2018 du 8 Nov 2018 portant approbation de la cession total du permis de recherches n° 680 de la société Ivanhoe Mines Exploration DRC SARL au bénéfice de la société G12 Entreprise SARL» (Ministerial Decree n° 0868/CAB.MIN/MINES/01/2018 of 8 Nov 2018 Approving the Total Transfer of Exploration License n° 680 From the Company Ivanhoe Mines Exploration DRC SARL in Favor of the Company G12 Entreprise SARL), November 8, 2018, available at: [mines-rdc.cd/fr/arretes](http://mines-rdc.cd/fr/arretes)

Ministry of Mines, "Arrêté ministériel n° 0869/CAB.MIN/MINES/01/2018 du 8 Nov 2018 portant approbation de la cession total du permis de recherches n° 811 de la société Ivanhoe Mines Exploration DRC SARL au bénéfice de la société G12 Entreprise SARL" (Ministerial decree n° 0869/CAB.MIN/MINES/01/2018 of 8 Nov 2018 approving the total transfer of exploration license n°811 From the company Ivanhoe Mines Exploration DRC SARL in favor of the company G12 Entreprise SARL), November 8, 2018, available at: [mines-rdc.cd/fr/arretes](http://mines-rdc.cd/fr/arretes)

Ministry of Mines, "Arrêté ministériel n° 0870/CAB.MIN/MINES/01/2018 du 8 Nov 2018 portant approbation de la cession total du permis de recherches n° 687 de la société Ivanhoe Mines Exploration DRC SARL au bénéfice de la société G12 Entreprise SARL» (Ministerial Decree n° 0870/CAB.MIN/MINES/01/2018 of 8 Nov 2018 Approving the Total Transfer of Exploration License n°687 From the Company Ivanhoe Mines Exploration DRC SARL in Favor of the Company G12 Entreprise SARL), November 8, 2018, available at: [mines-rdc.cd/fr/arretes](http://mines-rdc.cd/fr/arretes)

Ministry of Mines, "Arrêté ministériel n° 0867/CAB.MIN/MINES/01/2018 du 8 Nov 2018 portant approbation de la cession total du permis de recherches n° 809 de la société Ivanhoe Mines Exploration DRC SARL au bénéfice de la société G12 Entreprise SARL» (Ministerial Decree n° 0867/CAB.MIN/MINES/01/2018 of 8 Nov 2018 Approving the Total Transfer of Exploration License n°809 From the Company Ivanhoe Mines Exploration DRC SARL in Favor of the Company G12 Entreprise SARL), November 8, 2018, available at: [mines-rdc.cd/fr/arretes](http://mines-rdc.cd/fr/arretes)

Ivanhoe Mines Exploration DRC SARL, "Procès-verbal de l'Assemblée générale extraordinaire du 2 mai 2014" (Minutes of Extraordinary Shareholder Meeting of May 2, 2014), in Journal Officiel de la République démocratique du Congo, Number 23, December 1, 2015, col. 184.

Ministry of Finance, "Notification du Numéro Impôt A1821508Z à la Société Magharibi Mining SAU" (Notice of Income Tax Number A1821508Z for the Company Magharibi Mining SAU), October 19, 2018.

"Procuration spéciale" (Power of Attorney), attached to Magharibi Mining, "Procès-verbal des décisions de l'actionnaire



- unique tenant lieu d'assemblée générale extraordinaire" (Minutes of Decisions by Sole Shareholder in Lieu of Extraordinary Shareholder Meeting), October 22, 2018.
- Magharibi Mining, "Procès-verbal des décisions de l'actionnaire unique tenant lieu d'assemblée générale extraordinaire" (Minutes of Decisions by Sole Shareholder in Lieu of Extraordinary Shareholder Meeting), October 22, 2018.
- 154 "Procuration spéciale" (Power of Attorney), attached to Magharibi Mining, "Procès-verbal des décisions de l'actionnaire unique tenant lieu d'assemblée générale extraordinaire" (Minutes of Decisions by Sole Shareholder in Lieu of Extraordinary Shareholder Meeting), October 22, 2018.
- 155 According to the 2018 mining regulations, the shares amounting to 10% "can be acquired" ("peuvent être acquises") through a distribution of 5% to investors, or people "able to acquire them" ("capables d'acquérir les parts"), with the remaining 5% going to employees. See:  
 Note 121, tit. III ch. II arts. 71 d), 71 e), and 71 bis.  
 Democratic Republic of Congo, Décret n° 2003/038 du 26 mars 2003 portant Règlement minier tel que modifié et complété par le décret n° 024/18 du 8 juin 2018 (Decree n° 038/2003 of March 25, 2003 Bearing Mining Regulations as Modified and Completed by Decree n° 18/024 of June 8, 2018), tit. V ch. 1 arts. 144 and 144 bis, in Journal Officiel de la République démocratique du Congo, special edition, June 12, 2018.
- 156 Ivanhoe now stipulates that 10% of two local subsidiaries is currently owned by Congolese nationals in compliance with local laws. See note 3, p. 7.
- 157 Response from Ivanhoe Mines Ltd. to The Sentry, November 7, 2022.
- 158 Response from Ivanhoe Mines Ltd. to The Sentry, November 7, 2022.
- 159 The Ministry of Mines said that the license transfer applications were received on October 26, 2018. See:  
 Ministry of Mines, Ministerial decrees 864-866, November 8, 2018.
- 160 Ministry of Mines, Ministerial decrees 867-870, November 8, 2018.
- 161 Mahuku and a South African individual named Basia Ganda, presumably related to Issa Ganda, together own the company, for which Issa Ganda is general manager. It is registered at a physical address (10, avenue de l'école, C/Barumba, V/Kinshasa) that Ganda has used on at least one other occasion. See:  
 Registre du commerce et du crédit mobilier national (Registry of Commerce and Securities), "G12 Entreprise SARL," CD/KIN/RCCM/15-B-09230, available at: [rccm.cd](http://rccm.cd)  
 Registre du commerce et du crédit mobilier national (Democratic Republic of Congo Registry of Commerce and Securities), "Bahasa SARL," CD/KNG/RCCM/19-B-01734, available at: [rccm.cd](http://rccm.cd)
- 162 Issa Jean-Médard Ganda-e-Nzea is a former Mobutu-era diplomat who previously represented Mahuku's companies in their dealings with Ivanhoe Mines. In particular, he has been a board member at Kalongwe Mining and, according to his LinkedIn profile, managing director at the Mahuku company La Générale Industrielle et Commerciale au Congo (GICC), as well as a non-executive director at Tanga Logistics & Mining SA (TLM), all of which are discussed in this report and other media reporting. See:  
 Note 88.  
 The Indian Ocean Newsletter, "Mandela Shuns a Diplomat," N 764, May 10, 1997.  
 Issa Ganda, LinkedIn profile, available at: <https://www.linkedin.com/in/issaganda/>  
 Ivanhoe Mines, "Ivanhoe Mines Issues Fact-Based Response to Congo Research Group on Certain Business Activities in the Democratic Republic of Congo," News Release, July 20, 2017, available at: [ivanhoemines.com/news/2017/ivanhoe-mines-fact-based-response-issued-to-congo-research-group-june-15-2017/](http://ivanhoemines.com/news/2017/ivanhoe-mines-fact-based-response-issued-to-congo-research-group-june-15-2017/)
- 163 Ministry of Mines, Ministerial decrees 864-870, November 8, 2018.
- 164 Expiry dates for G12 Entreprise SARL exploration licenses PR680, PR687 and PR809 and PR811 have since been reset due to the granting of production licenses, while PR711-713 are now pending conversion to production licenses. See:  
 Trimble Landfolio, "DRC Mining Cadastre Map Portal," available at: [drclicences.cami.cd](http://drclicences.cami.cd)
- 165 The Sentry performed this analysis using automated and manual metadata collection exclusively from exploration



license transfer decrees published in PDF format by the Congolese Ministry of Mines at [mines-rdc.cd/fr/arretes](http://mines-rdc.cd/fr/arretes). Results on file with The Sentry.

166 See:

Ministry of Mines, “Arrêté ministériel n° 0985/CAB.MIN/MINES/01/2018 du 30 nov 2018 portant approbation de la cession totale du permis de recherches n° 1297 de la société Kwango Mining au bénéfice de la société Compagnie Minière de Lukaya « Comilu » SA” (Ministerial Decree n° 0985/CAB.MIN/01/2018 of November 30, 2018 Approving the Complete Transfer of Exploration License n° 1297 From the Company Kwango Mining in Favor of Compagnie Minière de Lukaya SA “Comilu”), November 30, 2018, available at: [mines-rdc.cd/fr/arretes](http://mines-rdc.cd/fr/arretes)

Ministry of Mines, “Arrêté ministériel n° 0986/CAB.MIN/MINES/01/2018 du 30 nov 2018 portant approbation de la cession totale du permis de recherches n° 1298 de la société Kwango Mining au bénéfice de la société Compagnie Minière de Lukaya « Comilu » SA” (Ministerial Decree n° 0986/CAB.MIN/01/2018 of November 30, 2018 Approving the Complete Transfer of Exploration License n° 1298 From the Company Kwango Mining in Favor of Compagnie Minière de Lukaya SA “Comilu”), November 30, 2018, available at: [mines-rdc.cd/fr/arretes](http://mines-rdc.cd/fr/arretes)

Ministry of Mines, “Arrêté ministériel n° 0988/CAB.MIN/MINES/01/2018 du 30 nov 2018 portant approbation de la cession totale du permis de recherches n° 1300 de la société Kwango Mining au bénéfice de la société Compagnie Minière de Lukaya « Comilu » SA” (Ministerial Decree n° 0988/CAB.MIN/01/2018 of November 30, 2018 Approving the Complete Transfer of Exploration License n° 1300 From the Company Kwango Mining in Favor of Compagnie Minière de Lukaya SA “Comilu”), November 30, 2018, available at: [mines-rdc.cd/fr/arretes](http://mines-rdc.cd/fr/arretes)

Ministry of Mines, “Arrêté ministériel n° 0989/CAB.MIN/MINES/01/2018 du 30 nov 2018 portant approbation de la cession totale du permis de recherches n° 1299 de la société Kwango Mining au bénéfice de la société Compagnie Minière de Lukaya « Comilu » SA” (Ministerial Decree n° 0989/CAB.MIN/01/2018 of November 30, 2018 Approving the Complete Transfer of Exploration License n° 1299 From the Company Kwango Mining in Favor of Compagnie Minière de Lukaya SA “Comilu”), November 30, 2018, available at: [mines-rdc.cd/fr/arretes](http://mines-rdc.cd/fr/arretes)

Ministry of Mines, “Arrêté ministériel n° 0992/CAB.MIN/MINES/01/2018 du 30 nov 2018 portant approbation de la cession totale du permis de recherches n° 1302 de la société Kwango Mining au bénéfice de la société Compagnie Minière de Lukaya « Comilu » SA” (Ministerial Decree n° 0992/CAB.MIN/01/2018 of November 30, 2018 Approving the Complete Transfer of Exploration License n° 1302 From the Company Kwango Mining in Favor of Compagnie Minière de Lukaya SA “Comilu”), November 30, 2018, available at: [mines-rdc.cd/fr/arretes](http://mines-rdc.cd/fr/arretes)

Ministry of Mines, “Arrêté ministériel n° 0993/CAB.MIN/MINES/01/2018 du 30 nov 2018 portant approbation de la cession totale du permis de recherches n° 1301 de la société Kwango Mining au bénéfice de la société Compagnie Minière de Lukaya « Comilu » SA” (Ministerial Decree n° 0993/CAB.MIN/01/2018 of November 30, 2018 Approving the Complete Transfer of Exploration License n° 1301 From the Company Kwango Mining in Favor of Compagnie Minière de Lukaya SA “Comilu”), November 30, 2018, available at: [mines-rdc.cd/fr/arretes](http://mines-rdc.cd/fr/arretes)

167 See note 121, tit. VII ch. II sec. I art. 185.

168 The Sentry performed this analysis using automated and manual metadata collection exclusively from exploration license renewal decisions that were published in PDF format by the Congolese Ministry of Mines at [mines-rdc.cd/fr/arretes](http://mines-rdc.cd/fr/arretes). Results on file with The Sentry.

169 January 26-27, 2015, was a weekend.

170 See:

Ministry of Mines, “Arrêté ministériel n° 0996/CAB.MIN/MINES/01/2015 du 30 déc 2015 portant renouvellement du permis de recherches n° 690 de la société Ivanhoe Mines Exploration DRC SARL” (Ministerial Decree Renewing Exploration Licensed n° 690 of the Company Ivanhoe Mines Exploration DRC SARL), December 30, 2015, available at: [mines-rdc.cd/fr/arretes](http://mines-rdc.cd/fr/arretes)

Ministry of Mines, “Arrêté ministériel n° 0997/CAB.MIN/MINES/01/2015 du 30 déc 2015 portant renouvellement du permis de recherches n° 701 de la société Ivanhoe Mines Exploration DRC SARL” (Ministerial Decree Renewing Exploration Licensed n° 701 of the Company Ivanhoe Mines Exploration DRC SARL), December 30, 2015, available at: [mines-rdc.cd/fr/arretes](http://mines-rdc.cd/fr/arretes)

171 See note 57, tit. II ch. II art. 40 and tit. III ch. I art. 62.

172 Ministry of Mines, Ministerial decrees 996 and 997, December 30, 2015.



- 173 The 2018 mining code does provide, however, that the new owners “assume all the obligations of the title holder toward the state” that flow from the exploration license. (“L’acte de cession contient le prix du transfert du droit ainsi que l’engagement du cessionnaire à assumer toutes les obligations du titulaire vis -à -vis de l’Etat qui découlent du droit de recherches ou d’exploitation, notamment celui de céder à l’Etat les parts ou actions prévues au littéra d de l’article 71 du présent Code.”) See note 121, tit. VII ch. II sec. I art. 181.
- 174 Ministry of Mines, Ministerial decrees 864-870, November 8, 2018.
- 175 The case of the Western Foreland licenses would not be the only instance in which politically connected actors traded on expired mineral rights. As The Sentry reported in 2021, a company reportedly controlled by the Kabila family transferred an expired phosphate production license to a shell company that had been used in an apparent corruption scheme involving giant Chinese state enterprises. That company then on-sold the license in early 2018 to major cobalt producer China Molybdenum for \$40 million in a transaction that raised questions about whether the president’s family had profited from the sale. China Molybdenum denied any knowledge of the shell company’s prior activities and said it had no contact with the Kabila-controlled entity’s owners, executives, or managers. See:  
The Sentry, “The Backchannel: State Capture and Bribery in Congo’s Deal of the Century,” November 2021, p. 33, available at: <https://thesentry.org/reports/backchannel/>
- 176 Response from Martin Kabwelulu to The Sentry, November 2, 2022.
- 177 Data visible on the Mining Caster’s web portal showed on March 2, 2020, that PR704, PR706, PR708, and PR714 had been granted in May of 2003 and were due to expire on May 9, 2020. Screen captures on file with The Sentry.
- 178 Data visible in March 2021 on the Mining Cadaster’s web portal showed that PR704, PR706, PR708, and PR714 were due to expire on September 1, 2021. Screen captures on file with The Sentry.
- 179 Guichet unique de création d’entreprise, Ministry of Justice, “Acte Constitutif” (Articles of Incorporation), Makoko SA, April 2, 2020.
- 180 Guichet unique de création d’entreprise, Ministry of Justice, “Extrait du registre du commerce et du crédit mobilier” (Excerpt from the Registry of Commerce and Securities), CD/LSH/RCCM/20-B-00346, August 25, 2021.
- 181 See note 3, p. 7.
- 182 Data available at the Mining Cadaster web portal, [drcllicences.cami.cd](http://drcllicences.cami.cd). Screen captures on file with The Sentry.
- 183 Lufupa SASU, the Ivanhoe subsidiary, holds Western Foreland exploration licenses PR12336 and PR12518. Should Ivanhoe transfer them to Lufupa Mining SARL, or transfer shares in Lufupa SASU to Mahuku, he would then own a financial interest in all of the original Western Foreland’s licensed areas covering nearly a third of its surface area. Published cadastral data indicates, as of August 2022, that PR12336 and PR12518 together comprise 173 quadrangles, or about 147 square kilometers, roughly 6% of the 2,400 square kilometers that make up the entire Western Foreland. See:  
See note 3, p. 7.  
Trimble Landfolio, “DRC Mining Cadastre Map Portal,” available at: [drcllicences.cami.cd](http://drcllicences.cami.cd)  
Registre du commerce et du crédit mobilier national (Democratic Republic of Congo Registry of Commerce and Securities), “Lufupa Mining SARL,” CD/KNG/RCCM/21-B-02840, October 18, 2021, available at: [rccm.cd](http://rccm.cd)  
Registre du commerce et du crédit mobilier national (Democratic Republic of Congo Registry of Commerce and Securities), “Lufupa SASU,” CD/LSH/RCCM/21-B-01245, December 1, 2017, available at: [rccm.cd](http://rccm.cd)
- 184 “Ivanhoe Mines does not have the knowledge to comment on the extended ownership structures of TLM or GICC, including the identities of their ultimately beneficial owner(s) who may stand, privately or publicly, at the pinnacles of their organizational pyramids.” See:  
Ivanhoe Mines, “Ivanhoe Mines Issues Fact-Based Response to Congo Research Group on Certain Business Activities in the Democratic Republic of Congo,” News Release, July 20, 2017, available at: [ivanhoemines.com/news/2017/ivanhoe-mines-fact-based-response-issued-to-congo-research-group-june-15-2017/](http://ivanhoemines.com/news/2017/ivanhoe-mines-fact-based-response-issued-to-congo-research-group-june-15-2017/)
- 185 See note 42.
- 186 Christopher R.N. McLeod and James M. Wishart, “Foreign Anti-Corruption Compliance: Director and Officer Obligations and Considerations,” Corporate Governance, available at: [www.dentons.com/-/media/pdfs/insights/2013/october/foreign-anticorruption-compliance-director-and-officer-obligations-and-considerations.pdf](http://www.dentons.com/-/media/pdfs/insights/2013/october/foreign-anticorruption-compliance-director-and-officer-obligations-and-considerations.pdf)



- 187 “As a company’s risk for FCPA violations increases, that business should consider increasing its compliance procedures, including due diligence and periodic internal audits.” See:  
US Department of Justice Criminal Division and US Securities and Exchange Commission Enforcement Division, “A Resource Guide to the US Foreign Corrupt Practices Act,” November 2012, p. 59, available at: [www.justice.gov/sites/default/files/criminal-fraud/legacy/2015/01/16/guide.pdf](http://www.justice.gov/sites/default/files/criminal-fraud/legacy/2015/01/16/guide.pdf)
- 188 “Conduct properly documented, risk-based due diligence (including to identify any beneficial owners or other beneficiaries not on record) before entering into a relationship with a business partner, and on an ongoing basis.” See: World Bank Group, “Summary of World Bank Group Integrity Compliance Guidelines,” p. 3, available at: [www.worldbank.org/content/dam/documents/sanctions/other-documents/sanctions-board/Summary\\_of\\_Integrity\\_Compliance\\_Guidelines.pdf](http://www.worldbank.org/content/dam/documents/sanctions/other-documents/sanctions-board/Summary_of_Integrity_Compliance_Guidelines.pdf)
- 189 “An Enterprise should conduct appropriate due diligence on the reputation and the capacity of its Business Partners exposed to corruption risks to comply with anti-corruption law in their dealings with or on behalf of the Enterprise.” See: International Chamber of Commerce, “ICC Rules on Combating Corruption,” 2011, p. 7, available at: <https://iccwbo.org/content/uploads/sites/3/2011/10/ICC-Rules-on-Combating-Corruption-2011.pdf>
- 190 South African Press Association, “Kabila’s Twin Sister, Brother, Elected to Parliament,” January 28, 2012, [web.archive.org/web/20160418231723/http://www.sabc.co.za/news/a/f883858049f4a40dbee2be10dc804ccd/Kabilas-twin-sister.-brother.-elected-to-Parliament-20120128](http://www.web.archive.org/web/20160418231723/http://www.sabc.co.za/news/a/f883858049f4a40dbee2be10dc804ccd/Kabilas-twin-sister.-brother.-elected-to-Parliament-20120128)
- 191 Agence Congolaise de Presse, “Publication des résultats partiels des élections de gouverneurs de province” (Publication of Partial Results From Elections for Provincial Governor), April 10, 2019.
- 192 Romain Gras, “RDC : pourquoi Zoé Kabila a été destitué de son poste de gouverneur du Tanganyika” (DRC: Why Zoé Kabila Was Removed From Office as Tanganyika Governor), Jeune Afrique, May 6, 2021, available at: [www.jeuneafrique.com/1167414/politique/rdc-zoe-kabila-destitue-de-son-poste-de-gouverneur-du-tanganyika/](http://www.jeuneafrique.com/1167414/politique/rdc-zoe-kabila-destitue-de-son-poste-de-gouverneur-du-tanganyika/)
- 193 Under Canada’s Corruption of Foreign Public Officials Act, the definition of “foreign public official” encompasses foreign legislators and administrators. See:  
Canada, Corruption of Foreign Public Officials Act, 1998, sec. 2(a), available at: [laws-lois.justice.gc.ca/PDF/C-45.2.pdf](http://laws-lois.justice.gc.ca/PDF/C-45.2.pdf)
- 194 The “Fourth EU anti-money laundering directive” likewise requires special scrutiny of business relationships with politically exposed persons, meaning heads of state, lawmakers, and others, or with family members and their “close associates,” meaning those who have “joint beneficial ownership of legal entities or legal arrangements.” See:  
European Parliament and European Council, “Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015,” May 20, 2015, available at: [eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32015L0849](http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32015L0849)
- 195 The four permits transferred to Issa Ganda have since been converted to mineral production. See:  
Data available at the Mining Cadaster web portal, [drclences.cami.cd](http://drclences.cami.cd). Screen captures on file with The Sentry.
- 196 According to the company’s first quarter 2022 management discussion and analysis, as of May 2022, exploration was still underway near the Makoko discovery area and the project was generally still at the stage of drilling and geophysical airborne surveys. See note 130, p. 30.
- 197 See note 121, tit. III ch. II art. 67.
- 198 See note 58, p. 28.
- 199 Kabwelulu was named minister of mines under Prime Minister Antoine Gizenga in February 2007. He was replaced in 2019 by Willy Kitobo Samsoni. See:  
Xinhua News Agency, “La composition du nouveau gouvernement de la RDC” (The Makeup of DRC’s New Government), February 6, 2007.  
Romain Gras and Stanis Bujakera Tshiamala, “RDC : qui sont les nouveaux ministres du gouvernement de Félix Tshisekedi ?” (DRC: Who Are the New Ministers of the Government of Félix Tshisekedi?), Jeune Afrique, September 2, 2019, available at: [www.jeuneafrique.com/mag/822179/politique/rdc-qui-sont-les-nouveaux-ministres-du-gouvernement-de-felix-tshisekedi/](http://www.jeuneafrique.com/mag/822179/politique/rdc-qui-sont-les-nouveaux-ministres-du-gouvernement-de-felix-tshisekedi/)
- 200 See note 121, tit. III ch. II art. 71.
- 201 See note 121, tit. III ch. II art. 69.



- 202 DRC Ministry of Justice Guichet de Création d'Entreprise, "Dépôt au greffe du procès-verbal d'assemblée générale extraordinaire Magharibi Mining SAU en sigle « Magharibi » SAU" (Filing With the Office of the Clerk of the Minutes of the Extraordinary Shareholder Meeting of Magharibi Mining, abbreviated "Magharibi" SAU), November 10, 2018.
- 203 Financial statements for the 2018 fiscal year, as well as for the first and second quarters of 2019, claimed that Magharibi Mining was 100%-owned. See:  
 Ivanhoe Mines, "Consolidated Financial Statements of Ivanhoe Mines Ltd. December 31, 2018," March 28, 2019, p. 43, available at: [ivanhoemines.com/site/assets/files/4214/fs\\_december\\_2018.pdf](http://ivanhoemines.com/site/assets/files/4214/fs_december_2018.pdf)  
 Ivanhoe Mines, "Condensed Consolidated Interim Financial Statements of Ivanhoe Mines Ltd. March 31, 2019," May 8, 2019, p. 25, available at: [ivanhoemines.com/site/assets/files/4858/condensed\\_consolidated\\_interim\\_financial\\_statements\\_for\\_the\\_three\\_months\\_ended\\_march\\_31-2019.pdf](http://ivanhoemines.com/site/assets/files/4858/condensed_consolidated_interim_financial_statements_for_the_three_months_ended_march_31-2019.pdf)  
 Ivanhoe Mines, "Condensed Consolidated Interim Financial Statements of Ivanhoe Mines Ltd. June 30, 2019," August 8, 2019, p. 26, available at: [ivanhoemines.com/site/assets/files/4850/condensed\\_consolidated\\_interim\\_financial\\_statements\\_for\\_the\\_three\\_months\\_ended\\_june\\_30-2019.pdf](http://ivanhoemines.com/site/assets/files/4850/condensed_consolidated_interim_financial_statements_for_the_three_months_ended_june_30-2019.pdf)
- 204 Ivanhoe Mines, "Ivanhoe Mines Ltd. Form 52-109F1 Certification of Annual Filings Full Certificate – CFO (E)," April 1, 2019, available at [www.sedar.com](http://www.sedar.com)
- 205 Ivanhoe Mines, "Form 52-109F2 Certification of Interim Filings Full Certificate," May 8, 2019, available at: [www.sedar.com](http://www.sedar.com)
- 206 Ivanhoe Mines, "Form 52-109F2 Certification of Interim Filings Full Certificate," August 8, 2019, available at: [www.sedar.com](http://www.sedar.com)
- 207 In the third quarter of 2019, or a year after the transactions in question, Ivanhoe acknowledged that its stake in Magharibi Mining had declined to 90%. See:  
 Ivanhoe Mines, "Condensed Consolidated Interim Financial Statements of Ivanhoe Mines Ltd September 30, 2019," November 8, 2019, p. 26, available at: [ivanhoemines.com/site/assets/files/4845/condensed\\_consolidated\\_interim\\_financial\\_statements\\_for\\_the\\_three\\_months\\_ended\\_september\\_30-2019.pdf](http://ivanhoemines.com/site/assets/files/4845/condensed_consolidated_interim_financial_statements_for_the_three_months_ended_september_30-2019.pdf)
- 208 The Sentry analysis of the text of news releases and securities filings during this period.
- 209 In March 2021, the company's 2020 annual information form described the Western Foreland as "ranging from 90%-100%-owned." See note 128, p. 8.
- 210 In announcing the start of commercial production in May 2021, for example, the company still described the Western Foreland as "wholly owned." Financial statements also occasionally say the project is 100%-owned. See:  
 Ivanhoe Mines, "Ivanhoe Mines Begins New Era of Commercial Copper Production," News Release, May 26, 2021, available at: [ivanhoemines.com/news/2021/ivanhoe-mines-begins-new-era-of-commercial-copper-production/](http://ivanhoemines.com/news/2021/ivanhoe-mines-begins-new-era-of-commercial-copper-production/)  
 Ivanhoe Mines, "Condensed Consolidated Interim Financial Statements of Ivanhoe Mines Ltd. March 31, 2022," May 10, 2022, p. 16, available at: [ivanhoemines.com/site/assets/files/5597/q1\\_qfs\\_march\\_31\\_2022.pdf](http://ivanhoemines.com/site/assets/files/5597/q1_qfs_march_31_2022.pdf)
- 211 See note 110.
- 212 As recently as May 2020, Ivanhoe described the Kiala target as "part of Ivanhoe's 100%-owned Western Foreland licences." As noted earlier, Ivanhoe created Makoko SA in April of 2020, apparently giving Mahuku 10%. The Kiala discovery falls within exploration license PR706, which is now held by Makoko. It is unclear whether the company Makoko had taken possession of the license at the time of the news May 2020 news release, however. See:  
 Note 126, p. 17 fig. 8.  
 Note 179.  
 Ivanhoe Mines, "Copper Ore Grading 8% Currently Being Mined and Stockpiled at the Kakula Mine, With Underground Development Approximately 4.4 kilometres Ahead of Schedule," News Release, May 13, 2020, available at: [ivanhoemines.com/news/2020/copper-ore-grading-8-currently-being-mined-and-stockpiled-at-the-kakula-mine-with-underground-development-approximately-4.4/](http://ivanhoemines.com/news/2020/copper-ore-grading-8-currently-being-mined-and-stockpiled-at-the-kakula-mine-with-underground-development-approximately-4.4/)
- 213 Response from Ivanhoe Mines Ltd. to The Sentry, November 7, 2022.
- 214 Response from Ivanhoe Mines Ltd. to The Sentry, November 7, 2022.
- 215 This language has appeared in the company's annual information forms since 2017, under "Subsidiary and Joint



- Venture Operations” in the section “Description of the Business.”
- 216 This language has also appeared in the company’s annual information forms since 2017, under “Operations in the DRC and South Africa” in the section “Description of the Business.”
- 217 This language appears in annual company filings stretching at least as far back as 2013, under “risk factors.”
- 218 See note 121, tit. II ch. III art. 48 ter.
- 219 Michael J. Kavanagh, “Congo Miner Threatens to Seize Giant Cobalt Project From Chinese Partner,” Bloomberg, June 17, 2022, available at: [www.bloomberg.com/news/articles/2022-06-17/congo-miner-threatens-to-seize-cobalt-project-from-chinese-partner](http://www.bloomberg.com/news/articles/2022-06-17/congo-miner-threatens-to-seize-cobalt-project-from-chinese-partner)
- 220 Michael J. Kavanagh, “Glencore Cobalt Mine Scrutinized as Congo Reviews Deals,” Bloomberg, April 22, 2022, available at: [www.bloomberg.com/news/articles/2022-04-22/glencore-cobalt-mine-scrutinized-as-congo-revisits-foreign-deals](http://www.bloomberg.com/news/articles/2022-04-22/glencore-cobalt-mine-scrutinized-as-congo-revisits-foreign-deals)
- 221 See note 3, p. 120.
- 222 Response from Ivanhoe Mines Ltd. to The Sentry, November 7, 2022.
- 223 Response from Ivanhoe Mines Ltd. to The Sentry, November 7, 2022.
- 224 See note 10.
- 225 See note 11.
- 226 Actualite.cd, “Corruption au sommet de l’Etat ? La présidence réagit et promet d’appliquer la rigueur de la loi même pour les proches de Félix Tshisekedi” (Corruption at the Seat of Power? The Presidency Reacts and Promises to Rigorously Enforce the Law, Even for Those Close to Félix Tshisekedi), September 16, 2022, available at: [actualite.cd/2022/09/16/corruption-au-sommet-de-letat-la-presidence-reagit-et-promet-dappliquer-la-rigueur-de-la](http://actualite.cd/2022/09/16/corruption-au-sommet-de-letat-la-presidence-reagit-et-promet-dappliquer-la-rigueur-de-la)
- 227 Tshimanga was briefly detained in September 2022. The charges against him reportedly include corruption, influence peddling, insulting the head of state, and money laundering. See:  
Stanis Bujakera Tshiamala, “RDC : ce que la justice reproche à Vidiye Tshimanga” (What the Authorities Accuse Vidiye Tshimanga Of), Jeune Afrique, September 28, 2022, available at: [www.jeuneafrique.com/1380653/politique/rdc-ce-que-la-justice-reproche-a-vidiye-tshimanga/](http://www.jeuneafrique.com/1380653/politique/rdc-ce-que-la-justice-reproche-a-vidiye-tshimanga/)
- 228 According to the publication Africa Intelligence, Ivanhoe and Tshimanga had been negotiating a possible joint venture for the development of exploration licenses held by a company owned by Tshimanga, with a Paris arbitral tribunal ruling in September that Tshimanga was not legally constrained from entertaining offers from other investors. See:  
Africa Intelligence, “Ivanhoe Loses Arbitration Against Tshisekedi’s Ex-Adviser Tshimanga,” November 24, 2022, available at: [www.africaintelligence.com/central-africa/2022/11/24/ivanhoe-loses-arbitration-against-tshisekedi-s-ex-adviser-tshimanga.109867724-art](http://www.africaintelligence.com/central-africa/2022/11/24/ivanhoe-loses-arbitration-against-tshisekedi-s-ex-adviser-tshimanga.109867724-art)
- 229 In its response to The Sentry, Ivanhoe said it had nothing to add to existing media reports on the Tshimanga affair. See:  
Response from Ivanhoe Mines Ltd. to The Sentry, November 7, 2022.
- 230 See note 57, tit. VIII ch. I art. 197.
- 231 In the 2018 mining code, this period was relaxed to one year. See note 121, tit. VIII ch. I art. 197.
- 232 See note 36.
- 233 “In the mining sector, the term speculation is most often used with negative connotations: to refer to titleholders who apply for licenses with the intention of selling them later and, in the meantime, hoard the licenses without development of significant activity on site. In countries where this practice is very common, it may impede development of the mining sector, and cadastral management may be needed to decrease the negative effects of speculation, mainly by setting conditions for the validity of mineral licenses.” See:  
Enrique Ortega Girones, Alexandra Pugachevsky, and Gotthard Walser, “Mineral Rights Cadastre: Promoting Transparent Access to Mineral Resources,” The World Bank, Extractive Industries for Development Series #4, June 2009, pp. 35-41, available at: [openknowledge.worldbank.org/handle/10986/18399](http://openknowledge.worldbank.org/handle/10986/18399)
- 234 This of course includes researching and prospecting, licensing, surveying, and drilling campaigns, assay results analysis, financing and economically priced energy securement, construction, extraction, and refinement, not to mention dealing with communities and politicians, resolving corporate disputes and litigation, and more. As Robert



- Friedland recently reminded TV viewers, “Mining is such a difficult business that I like to say it’s definitely not a business for intelligent people. If we just wanted to make a few billion dollars, maybe we’d write an app and sell it to a big tech company. Mining takes decades. The process of finding a mine...can take a decade or longer and then to engineer, design, and construct a mine...” See note 5, from 2:40.
- 235 Most jurisdictions today encourage miners to work without delay, penalizing title holders who start work late and imposing escalating rents, mandatory relinquishments, and minimum investment requirements or taking titles from miners who fail to “use it.” Mining laws across Africa generally discourage allowing large areas to be tied up unproductively for long periods under exclusive licenses. While the relevant provisions apply to prospecting and reconnaissance, the principle generally appears to hold. Most mining laws also automatically require title holders to drop a portion of their licensed areas in order to renew them, which helps minimize this. Tanzania and Sierra Leone accomplish a similar end by shortening the validity periods of licenses with each renewal. See:  
 Note 233, p. 35.  
 Tracy-Lynn Field, *State Governance of Mining, Development and Sustainability*, Northampton, MA: Edward Elgar Publishing, 2019, pp. 161-164.  
 World Bank, “Guiding Template: B24.4: Area,” “African Mining Legislation Atlas,” June 26, 2017, available at: [www.a-mla.org/en/guidingtemplate](http://www.a-mla.org/en/guidingtemplate)
- 236 Under Zaire’s 1981 mining law, exploration permits were to last five years, renewable twice, with the surface area shrinking by half at each renewal. This remained the case under the 2002 mining code, but the maximum surface area allowable under an exploration license shrank by 92%. The 2002/2003 framework allowed for five-year exploration licenses, which could be renewed twice, with at least half the surface area automatically surrendered at each renewal. However, the size of a license was capped at 471 quadrangles (carrés), or 400 square kilometers, a 92% decrease from the 5,000 square kilometers awarded under an exclusive exploration zone contract called for in Zaire’s 1981 mining law. By 2018, DRC’s bargaining position vis-à-vis foreign mining companies had strengthened such that lawmakers were in a position to enact reforms over the industry’s objections by raising taxes and royalties. An exploration license’s maximum allowable lifespan also fell from 15 years to 10 years. See:  
 Note 40, tit. III art. 41c.  
 Note 57, tit. III ch. 1 art 52.  
 Note 121, tit. III ch. 1 art. 52.  
 Democratic Republic of Congo, Décret n°038/2003 du 26 mars 2003 portant règlement minier (Decree n° 038/2003 of March 26, 2003 Approving Mining Regulations), tit. III ch. II art. 39 and tit. IV ch. I art. 95, March 26, 2003, available at: [www.resourcedata.org/dataset/rqi-decret-n-038-2003-du-26-mars-2003-portant-reglement-minier](http://www.resourcedata.org/dataset/rqi-decret-n-038-2003-du-26-mars-2003-portant-reglement-minier)  
 Nicholas Bariyo, “Mining Giants Face Blow From World’s No. 1 Cobalt Producer,” *The Wall Street Journal*, March 8, 2018, [www.wsj.com/articles/mining-giants-face-blow-from-worlds-no-1-cobalt-producer-1520510163](http://www.wsj.com/articles/mining-giants-face-blow-from-worlds-no-1-cobalt-producer-1520510163)
- 237 See note 193.
- 238 United States, Foreign Corrupt Practices Act, 1979, 15 USC §78dd-1, available at: [www.govinfo.gov/content/pkg/USCODE-2020-title15/pdf/USCODE-2020-title15.pdf](http://www.govinfo.gov/content/pkg/USCODE-2020-title15/pdf/USCODE-2020-title15.pdf)
- 239 Ivanhoe Mines Ltd., “Code of Business Conduct and Ethics,” available at: [ivanhoemines.com/site/assets/files/5373/code\\_of\\_business\\_conduct\\_and\\_ethics\\_english\\_ir\\_2020-03.pdf](http://ivanhoemines.com/site/assets/files/5373/code_of_business_conduct_and_ethics_english_ir_2020-03.pdf)
- 240 See note 193.
- 241 See note 238.
- 242 US Financial Crimes Enforcement Network, “Advisory on Human Rights Abuses Enabled by Corrupt Senior Foreign Political Figures and Their Financial Facilitators,” June 12, 2018, available at: [www.fincen.gov/sites/default/files/advisory/2018-06-12/PEP\\_Facilitator\\_Advisory\\_FINAL\\_508.pdf](http://www.fincen.gov/sites/default/files/advisory/2018-06-12/PEP_Facilitator_Advisory_FINAL_508.pdf)
- 243 US President (Donald J Trump), Executive Order 13818, “Blocking the Property of Persons Involved in Serious Human Rights Abuse or Corruption,” December 17, 2017, available at: [www.govinfo.gov/content/pkg/DCPD-201700923/pdf/DCPD-201700923.pdf](http://www.govinfo.gov/content/pkg/DCPD-201700923/pdf/DCPD-201700923.pdf)
- 244 Canada, Justice for Victims of Corrupt Foreign Officials Act (Sergei Magnitsky Law), 2017, available at: [laws-lois.justice.gc.ca/eng/acts/J-2.3/page-1.html](http://laws-lois.justice.gc.ca/eng/acts/J-2.3/page-1.html)

