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Radioactive Revenues

Financial Flows between Uranium Mining Companies and African Governments

Albert ten Kate & Joseph Wilde-Ramsing

March 2011

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1 Executive Summary

Uranium mining in Africa: Four host states, four multinational corporations

In 2009, Africa's share of worldwide uranium mining amounted to 17%, with the vast majority of uranium production taking place four African host states: Niger, Namibia, Malawi and South Africa. During the period 2009–2012, uranium production within these four host states is expected to increase by a staggering 118%. During the period 2005–2009, four multinational corporations accounted for the vast majority of African uranium production. They were the French AREVA group, the Anglo-Australian Rio Tinto, the Australian company Paladin Energy and the South Africa-based AngloGold Ashanti. These four corporations are likely to continue to be the dominant players at least through 2012. These four African host states and four multinational corporations are the focus research.

The report aims to:

- Shed light on the revenue streams between uranium mining companies and African host states in terms of the major sources of revenue and the stability or volatility of the streams.
- Contribute to a better understanding of the regulations on revenues and/or investment agreements that African host states have in place, the importance of these regulations on securing revenues, and the possibilities for altering the regulations to ensure that a greater portion of revenues contributes to the sustainable development of the host country.
- Elucidate the extent to which multinational corporations transparent about their payments of taxes, royalties, and other financial contributions to the host states and the differences between the contributions from the companies.
- Provide recommendations to African host state governments and multinational uranium mining companies for ensuring that a greater portion of revenues contributes to the sustainable development of the host country.

The predictability of revenues

The most important revenues for host states from uranium mining in Africa are corporate income taxes, selling rights, mining royalties and, to a lesser extent, employment taxes, but there is a great deal of difference between the predictability and stability of these sources of revenue. Selling rights and royalties are generally more stable than corporate income tax as they do not depend directly on the profits of the mining companies, which can be highly volatile. The revenues from mining royalties depend primarily on uranium prices on the world market, but also on agreed prices and quantities in long-term contracts signed with customers.

Of all of the potential sources of revenues, those related to corporate earnings are the most volatile. These sources include corporate income tax (a percentage of taxable profits), taxes on dividends, and benefits from holding a stake in the mining company (dividend, retained earnings). These revenues are affected by uranium prices, production costs and by companies being able to reduce their corporate income tax liability through mechanisms that compensate them for losses in earlier periods and/or through the accelerated depreciation of investments.

In general, corporate income taxes may be further reduced by multinational corporations through the use of intra-group transactions that move their costs and earnings to jurisdictions where the corporate income tax rate is most favourable to the company. This study does not investigate the use of such

(legal or illegal) tax avoidance/evasion mechanisms, but the frequent use of these mechanisms by multinational corporations in general likely reduces the contribution of corporate income tax as a source of revenue for host states and contributes to its unpredictability.

Niger's right to sell a percentage of the uranium produced directly on the global market uranium provides an additional and somewhat stable source of revenue for the Nigerien government. This revenue stream is of course dependent on the market price.

Uranium prices

Many of the sources of revenue for host states depend heavily on the price of uranium on the world market. The period 2007–2009 was somewhat unique in this respect. During the period 1990- 2003, prices were much lower. Beginning in 2004, prices rose sharply, peaked in 2007, and have been slowly decreasing since then, although 2010 saw prices rise again slightly over 2009 levels.

The high prices during the 2007–2009 period caused earnings and profits of mining companies to rise as well. As a result, revenues for the host states from mining royalties and corporate income taxes increased as well. However, there is no guarantee that prices will not fall back to the low levels seen during 1990–2003, which would mean a significant reduction in revenues from royalties and corporate income taxes.

Changing regulations on revenues for host states

The study finds that some African host states have recently moved to strengthen their financial regulations on uranium mining in order to receive greater revenues from these operations. In 2007, Namibia decided that uranium mining companies should pay royalties of 3% of sales. In 2010, South Africa introduced mining royalties of 1.75% of gross sales when profits are 10% of gross sales.

However, the move that has been the most remarkable in generating additional revenues for the host state has been Niger's acquisition of uranium selling rights, first negotiated with AREVA in 2007. During the years 2007, 2008 and 2009 the revenues received by the Nigerien government from this revenue stream amounted to EUR 9.1 million, EUR 27.5 million and EUR 20.9 million respectively. From 2013/2014 onwards, the Imouraren mine, with AREVA as the main shareholder, will enter into production. The government of Niger will have the right to sell 33.35% of the uranium produced, which is estimated to reach 5,000 tons annually. Also, for the existing mining operations by SOMAÏR and COMINAK, since 2010 Niger has the right to sell uranium according to its stake in the mining company (i.e. 36.6% and 31%, respectively).

Comparison of taxes and other contributions

Per kilogram of uranium sold, the study finds that Paladin in Malawi and AngloGold Ashanti in South Africa pay less taxes and other financial contributions than Rio Tinto in Namibia and AREVA in Niger. With a relatively low percentage of mining royalties to be paid and many opportunities for Paladin to reduce its corporate income tax in the early years of operations, Malawi is not expected to obtain much revenue from Paladin's uranium mining operations if uranium prices decline. However, given the physical and operational differences between mines (e.g. uranium ore grade, capacity, production costs, lifetime, etc.), it is difficult to make a judgement about the regulations relating to revenues for the host states with regard to each mining operation.

In the period 2005 – 2009, the revenues received by Niger from the AREVA-owned mining operations amounted to EUR 225 million. In the same period, Namibia received EUR 181 million in revenue from

the Rio Tinto-owned mining operations. A notable difference is the royalty rate, which is 3% in Namibia and 5.5% in Niger. In the period 2005 – 2007, Namibia received more revenue than Niger from corporate profits, but Niger has been catching up through the acquisition of selling rights.

Transparency of companies

Of the four companies reviewed in the study, Paladin appears to be the least transparent. It is the only company in the research that does not support the Extractive Industries Transparency Initiative (EITI) and was the only company unwilling to answer requests for information for this study. Payments such as employment taxes and customs duties could not be found in its annual reports, while payments of corporate income taxes and royalties were not listed on a country-by-country basis.

Rio Tinto is transparent with regard to taxes and other contributions to the Namibian government by its majority owned company Rössing Uranium. Rio Tinto, along with AngloGold Ashanti, reports its tax payments on a country-by-country basis. AREVA cooperates in the EITI-related process of comparing company payments and government revenues in Niger. Among the four countries examined in this report, Niger is the only one that participates in the EITI.

The agreements (investment contracts) that uranium mining companies sign with host states can have a law-making function and often include tax exemptions and stabilization clauses. Such mining agreements are generally not made public. Paladin has signed a mining agreement with the government of Malawi, including tax exemptions and a clause which guarantees that the company will not face any increase in taxes or other contributions in the coming ten years. The fiscal details of this mining agreement have been made public. For Niger, most fiscal details of such agreements could be found without gaining access to the mining agreements themselves. The agreements between AngloGold Ashanti and South Africa and Rio Tinto and Namibia did not seem to contain specific clauses on taxes and other contributions that differ from national laws.

Recommendations

Based on the analysis, the report's key recommendations to African host states include:

- Given the uncertainty and volatility of revenues and the major risks to health, safety and environment that uranium mining entails, seek investment in sustainable alternatives such as renewable energy and the sustainable tourism industry before considering uranium mining.
- In countries that do allow uranium mining, make investment agreements public and ensure that the proceeds benefit the welfare of the communities and workers affected by the mining operations.
- Ensure that revenues earned flow to the communities affected by mining operations.
- Ensure that investors' rights and responsibilities are balanced and that substantive social and environmental dimensions are included alongside financial aspects in investment agreements with uranium mining companies.

Key recommendations to multinational uranium mining corporations include:

- Allow host governments to maintain policy space in investment agreements. For example, corporations should not insist on the right to use "indirect expropriation" to challenge government regulations/actions that may reduce the value of a foreign investment.
- Disclose all payments to governments on a country-by-country, disaggregated basis, applying high standards such as those expressed in the Extractive Industries Transparency Initiative, the OECD Guidelines for Multinational Enterprises, and the Global Reporting Initiative.

2 Introduction

In 2006, the managing director of Australian junior uranium mining company Paladin, John Borshoff, announced "Australia and Canada have become overly sophisticated ... [T]here's been an over-compensation in terms of thinking about environmental issues and social issues", forcing companies like Paladin into Africa.[1]

In 2009, Africa accounted for 17% of uranium mining worldwide.[2] This percentage is expected to increase at a rapid pace over the coming years, as many additional mining operations are starting up. The uranium mined in Africa is mostly exported to developed and emerging countries for the purpose of producing electricity in nuclear reactors.

Uranium mining operations in Africa are conducted by multinational corporations, and there is continuous debate about the investment agreements (including tax breaks) between these enterprises and the African host states. Some feel that mining companies are driving a hard bargain, offering the host states little revenue while making big profits. Others criticise the secrecy surrounding investment agreements (which have a law-making function) and the lack of transparency in the book-keeping of companies as well as host states.

This report focuses on the revenues from uranium mining operations for the African host states. It also examines the transparency with regard to payments made by multinational corporations to the host states. The report is part of a larger study on the social and environmental impacts of uranium mining in Africa. This larger SOMO-WISE study will be published later in 2011.

SOMO and WISE are both based in the Netherlands. SOMO (Centre for Research on Multinational Corporations) is an independent research organisation. In 1973, SOMO was founded to provide civil society organizations with knowledge on the structure and organisation of multinationals by conducting independent research. SOMO has built up considerable expertise in among others the following areas: corporate accountability, financial and trade regulation and the position of developing countries regarding the financial industry and trade agreements. Furthermore, SOMO has built up knowledge of many different business fields by conducting sector studies. WISE (World Information Service on Energy) is a networking and research organisation with its focus on nuclear energy issues.

Aim and objectives

The overall long-term aim of this report is to contribute to sustainable and fair economic development in Africa and to the elimination of the structural causes of poverty exploitation and inequality. In order to do so, the report has as its objectives to:

- Shed light on the revenue streams between uranium mining companies and African host states in terms of the major sources of revenue and the stability or volatility of the streams.
- Contribute to a better understanding of the regulations on revenues and/or investment agreements that African host states have in place, the importance of these regulations on securing revenues, and the possibilities for altering the regulations to ensure that a greater portion of revenues contributes to the sustainable development of the host country.

[1] John Borshoff, Managing Director Paladin Energy Ltd. (Melbourne Sun Herald, April 3rd, 2006).
[2] World Nuclear Association, table 'World Uranium Mining', production figures 2003–2009, May 2010, <http://www.world-nuclear.org/info/inf23.html>

- Elucidate the extent to which multinational corporations transparent about their payments of taxes, royalties, and other financial contributions to the host states and the differences between the contributions from the companies.
- Provide recommendations to African host state governments and multinational uranium mining companies for ensuring that a greater portion of revenues contributes to the sustainable development of the host country.

Beneficiaries and target groups

The primary intended beneficiaries of this report are the communities and workers affected by uranium mining activities and those who will be affected if new mining operations begin. The primary target groups, and those to whom the report's recommendations are addressed, are the governments of African countries in which uranium mining is currently taking place or being explored and multinational mining companies involved in uranium mining in Africa.

3 Research questions and methodology

Four countries and four companies

This study focuses on the period 2005–2009. During this period, four multinational corporations constituted nearly the entire African uranium mining sector. They were the French AREVA group, the Anglo-Australian Rio Tinto, the Australian company Paladin Energy and the South Africa-based AngloGold Ashanti. The primary uranium mining operations of these four companies were located in four African host states: Niger, Namibia, Malawi and South Africa. The research comprised these four companies and these four countries.

This study also considered whether in 2012 the four countries and four companies would still be the main players. This was found to be the case, although some investments in other countries are planned (for example by the AREVA group in the Central African Republic) and other companies are entering the scene (for example in Namibia, South Africa and Niger).

Research questions

The following research questions were raised:

- What are the major sources of revenue for African host states from uranium mining operations?
- How predictable or volatile are these revenue streams and how much revenue did they generate for African host states during the period 2005–2009?
- How dependent are revenues from uranium mining on the price of uranium on the world market?
- What regulations on revenues and/or investment agreements do African host states have in place?
- Have the regulations changed recently? If so, to what extent and what was the rationale for the change?
- Have the changes in regulations resulted in a change in the amount of revenue received?
- Have certain multinational uranium mining companies contributed more than other to the African states that host their mining activities?
- To what extent are the multinational corporations transparent about their payments of taxes, royalties, and other financial contributions to the host states?

It should be noted that this study only considered the revenues received by host states. Revenues are only one indicator of whether mining operations contribute to economic development in the host states. Other beneficial aspects include employment and indirect economic activities due to the mining operations. Negative aspects may, for example, include the use of non-renewable water resources, an increased risk of conflicts, and pollution. Thus, apart from revenues, no other beneficial or negative aspects for the host states were taken into account in this study.

It should be further noted that this study has not looked into multinational corporations' use of mechanisms to reduce tax payments through intra-group transactions. The work of the Global Financial Integrity program[3] reveals that corporations' use of such mechanisms is a major problem for developing countries. Transfer pricing may occur whenever companies that are part of the same multinational enterprise trade with each other. For example, a management fee may be transferred

[3] Global Financial Integrity Program website, <http://www.gfip.org/>.

from one company to the other due to services delivered. International standards require the group's accountants to base this fee on the arm's length price, which is the price that a company would be expected to pay for a product when buying it from another, completely unrelated company. Sometimes companies attempt to evade taxes by transferring costs and earnings to jurisdictions where corporate income tax rates are the most favourable to the company.[4] This study also does not explicitly distinguish tax policy issues from tax and contract administration. A critical question in this regard is whether resource-rich developing countries have adequate systems to enforce the provision of the tax law and/or the contracts. Thus contract administration and monitoring is a vitally important dimension.

Methodology

The study comprised primarily desk research. Numerous internet sources were accessed. These included:

- The websites of the companies reviewed, including their annual reports
- The websites of government departments of host states for information about the framework surrounding revenues and investment policies
- The LexisNexis database for news on investments and revenues in the host states
- Reports on taxes payable by mining and other companies, as produced by NGOs, tax consultancy firms and intergovernmental institutions such as the World Bank and the International Monetary Fund (IMF)
- The websites of the Extractive Industries Transparency Initiative (EITI) and NGOs working on tax transparency
- The websites of the Euratom Supply Agency of the European Commission and the uranium mining company Cameco with regard to uranium prices

A comprehensive questionnaire was sent to all companies that included a range of questions on financial, social and environmental aspects of uranium mining in Africa. Representatives of Rio Tinto, AREVA and AngloGold Ashanti responded to the questionnaire. Their answers to the questions on financial aspects of uranium mining have been used for this report. Despite repeated requests, Paladin did not respond.

A draft factsheet on their respective mining operations and their payments to host states was sent for review to each of the companies (Rio Tinto, AREVA, Paladin and AngloGold Ashanti), who were invited to answer some specific questions, notify the authors of factual misunderstandings and provide additional information. AngloGold Ashanti, Rio Tinto and AREVA responded to our draft factsheets with helpful comments; Paladin did not respond at all.

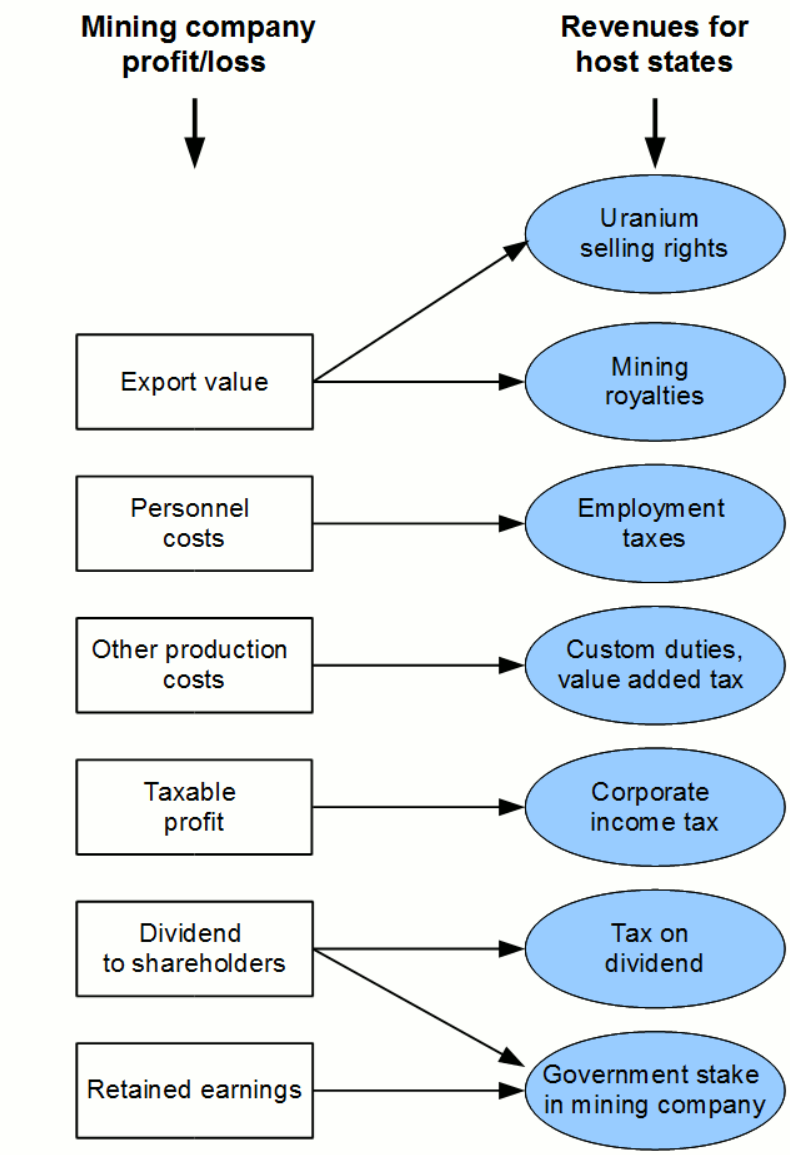
The factsheets comprise information on the host states, uranium production, investment plans, employment, regulations of the host states designed to generate revenues, and the payments by the companies, including their transparency about these payments. The factsheets can be found in the Annexes A to E. On the basis of the factsheets, a comparative analysis of the revenues to the host states and the transparency of the four companies with regard to their payments to the host states was undertaken.

[4] ActionAid UK, report 'Calling time, why SABMiller should stop dodging taxes in Africa', November 2010, <http://www.actionaid.org.uk/doc_lib/calling_time_on_tax_avoidance.pdf>

4 An insight into revenues from uranium mining

Figure 1 below illustrates the various potential revenues that may accrue to host states of uranium mining. These potential sources of revenue (indicated by the blue ovals in the figure) comprise various taxes, royalties and other contributions.

Figure 1: Potential sources of revenue for host states from uranium mining companies



- **Uranium selling rights.** Although in the majority of cases it is the multinational corporations that sell any uranium produced to customers, host states may negotiate deals with the companies that allow the state itself to directly sell a certain percentage of the uranium mined. To date, of all the uranium producing countries in Africa, only the government of Niger has negotiated such selling rights. In Niger, a purchase price for the uranium mined at the mining companies is set by the government after consulting the other stakeholders. All the stakeholders may subsequently sell the uranium against their own deals with customers. Some stakeholders may use the uranium for their own nuclear reactors. Others, like the government of Niger, will enter into deals with companies that have nuclear reactors. Long-term contracts may be signed, or the uranium can be sold at the spot market.
- **Mining royalties.** Mining royalties generally comprise a percentage of the export value of the uranium. If the mining company is not making taxable profits but still exports large quantities, royalties still be a reliable source of revenue.
- **Employment taxes.** The host state may levy taxes on the wages earned by workers at the mining company (income tax). Often there is a progressive tax rate system: the higher the wages, the higher the percentage of taxes to be paid. In addition to income tax, social contributions for health care and/or unemployment insurance may be asked from the employees. The mining company collects the taxes and social contributions and passes them on to the government. Apart from these taxes and contributions, there may be an additional payment required by the employer.
- **Customs duties and value added tax.** Customs duties may be levied at the border for goods imported by the mining company. Sometimes mining companies are exempt from paying these duties. Value added tax (VAT) usually comprises a percentage (10 to 20 percent) of the difference between the value of sales and the value of purchased goods and services. Mining companies are not required to charge VAT on the export value of the uranium. However, they do pay VAT on their purchases of goods and services from other companies. Usually the mining companies are able to reclaim their VAT on their purchases, although in practice this does not always happen.[5] Thus, similar to income taxes on wages, the mining company collects VAT and passes it on to the government.
- **Corporate income tax.** Corporate income tax is a percentage of the taxable profit generated by the mining company. In addition to mining royalties and employment taxes, corporate income tax is a very important source of revenue. However, whether or not profits are made very much depends on the uranium price and prices agreed upon in long-term contracts with buyers. Profits also depend on production costs and the cycle of the mine since a mine will typically not make profits in the early years (lower production and offsetting of capital costs) before getting to peak production and profit.
- **Deferred tax assets and liabilities.** An important feature in the regulations of host states and/or the investment agreements between host states and mining companies concerns the accelerated depreciation of investments and the possibility of avoiding corporate income tax through compensation for losses in earlier periods. In finance, depreciation refers to the fact that assets with finite lives lose value over time. For example, a machine may have a ten year lifespan. This would mean that in the profit and loss account, every year 10 percent of the value of the machine should be claimed as costs. Mining companies often prefer to ask for accelerated depreciation or even immediate 100 percent capital write-off. This means that the total value of the machine can be claimed as costs in the early years of investment. This reduces profits (and in turn the corporate income tax which can be claimed by the host state). After a few years, however, this may lead to a reversal. This is the case when the machine is

[5] PricewaterhouseCoopers LLP, report 'Tax Contribution study for the mining sector', 2009, <http://www.pwc.com/gx/en/energy-utilities-mining/pdf/total-tax-contribution-mining-sector.pdf>

fiscally depreciated while it still has a real value. At that stage, extra profits are made. The taxes that may have to be paid in the future in this respect need to be accounted for as a deferred tax liability in the current years of fiscal depreciation. The deferred tax liability reflects corporate income tax that may need to be paid by the company at some future point in time. Apart from deferred tax liabilities, companies may build up deferred tax assets. These are negative corporate income taxes that may be set off against future profits of the company. Negative corporate income taxes may appear on the company's accounts due to losses, which may especially occur in the early years of mining operations. If carry-forward of these negative corporate income taxes is allowed, the company will list them as a deferred tax asset.

- **Tax on dividends.** Mining companies may provide dividends to the shareholders of the mining company, after the net profit is calculated. The net profit comprises the taxable profit minus the corporate income tax. From the net profit, a part may be provided as a dividend for stakeholders. The other part may retain within the company (retained earnings). The host state may also levy taxes on the dividends received by shareholders, other than itself.
- **Government stake in mining company.**
  If host states own shares in the mining company, they may receive dividends on the company's retained earnings.
- **Other revenues.** There are other taxes and other contributions that mining companies may have to pay to host states. Examples are property taxes and licence fees.

Which taxes or other contributions bring in the most revenues?

In 2009, the tax consultancy firm PricewaterhouseCoopers published the study *Total Tax Contribution. Global Study for the Mining Sector*.[6] The purpose of the study was to provide greater transparency with respect to the overall contribution of mining companies to the public finances of the countries where they operate. The study was carried out using data provided by fourteen large mining companies. These companies were asked to provide data on their tax payments and other contributions to government in the countries where their largest operation was located during the fiscal year ending 31 December 2007 or an equivalent period. The results show the revenues for the host states.

A distinction was made between taxes and other contributions borne by the companies, and taxes collected by them. The breakdown of taxes borne to the benefit of host states, totalling USD 24.3 billion, was as follows:

- Corporate income tax: 48%
- Taxes related to the extraction of minerals and metals (mining taxes, royalties, licence fees and resource rents): 29%
- Employment taxes (taxes and social contributions of the employer): 11%
- Production taxes (customs duties, irrecoverable VAT, etc.): 5%
- Property taxes (taxes on the ownership and use of real and intangible property): 4%
- Other profit taxes: 3%

The breakdown of taxes collected for the host states, totalling USD 4.7 billion, was as follows:

[6] PricewaterhouseCoopers LLP, report 'Tax Contribution study for the mining sector', 2009, <http://www.pwc.com/gx/en/energy-utilities-mining/pdf/total-tax-contribution-mining-sector.pdf>. It should be noted that some revenue transparency NGOs like Revenue Watch Institute have concerns regarding the methodology and results of this PWC study given that it relies on voluntary and partial disclosure from companies that can alter the sample and bias the results.

- Employment taxes (income tax deducted through payroll and social contributions by the employee): 55%
- Taxes withheld at source from dividends, royalties, fees or other charges: 27%
- Taxes on production (net value added tax and other taxes levied on the production and sale of goods and services: 18%

The study by PricewaterhouseCoopers reveals the most important revenues for host states of mining companies: corporate income tax, taxes related to the extraction of minerals and metals (in this report mainly referred to as mining royalties) and employment taxes. It should be noted that the study by PricewaterhouseCoopers reflected the contributions of mining companies during the year 2007, when metal prices were high, thus increasing the profits of the companies and the contributions to the host states. In particular, the corporate income tax as a percentage of taxes and contributions borne may be far lower than 48% during years with ‘normal’ prices.

5 Main uranium mining companies in Africa

In this section, the main uranium mining companies operating in Africa during 2009 are briefly described, including their uranium production in 2009. Together, the companies represent the entire production of uranium in Africa during 2009. More information on the companies and their expansion plans can be found in Annexes A to E.

5.1 AREVA in Niger

Since the start of uranium mining in Niger, the French AREVA group has been the main mining company. AREVA is more than 90% owned by the French state.[7] Uranium mining in Niger started in the 1970s. In November 2006, the cumulative production from the country surpassed 100,000 tons. Two joint ventures led by AREVA presently constitute the vast majority of the uranium mining operations in Niger.

The Société des Mines de l'Air (SOMAÏR) produces uranium from the Arlit open-pit mine and has the following shareholders:

- France's AREVA group: 63.4%
- The State of Niger: 36.6%

The Compagnie Minière d'Akouta (COMINAK) produces uranium from the Akouta underground mine and has the following shareholders:

- France's AREVA group: 34%
- The State of Niger: 31%
- Japan's Overseas Uranium Resources Development Co. (OURD):[8] 25%
- Spain's Enusa Industrias Avanzadas, S.A. (Enusa):[9] 10%

In 2009, SOMAÏR produced 1,808 metric tons of uranium. COMINAK produced 1,435 tons.[10] Total production amounted to 3,243 tons of uranium in 2009.

5.2 Rio Tinto in Namibia

Rössing Uranium Limited was formed in 1970 and started mining in 1976. By the end of 2009 it had supplied 94,963 tons of uranium.[11] Its primary product is uranium oxide, extracted from tough granite known as Alaskite. Rössing has the following shareholders:

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7 As of 31 December 2009, the French state holds, directly or indirectly, more than 90% of the shares issued by AREVA and more than 94% of its voting rights. AREVA group, '2009 Reference Document', 29 March 2010, <http://www.AREVA.com/mediatheque/liblocal/docs/pdf/groupe/pdf-doc-ref-09-va.pdf>

8 OURD is 100% owned by the private sector. OURD website, 'About us', <http://www.ourd.co.jp/english/corporate.html>

9 Enusa is a 100% state-owned Spanish company. Enusa website, 'About us', <http://www.enusa.es/eng/enusa/sobreenusa.html>

10 AREVA group, 'SOMAÏR: a growing uranium producer' and 'COMINAK: operation of an unparalleled mine', <http://www.AREVA.com/EN/operations-658/worldwide-mining-operations-meeting-demand-for-uranium-through-global-operations.html>

11 World Nuclear Association, 'Uranium in Namibia', 31 October 2010, <http://www.world-nuclear.org/info/inf111.html>

- The Anglo-Australian Rio Tinto Group: 68.6%
- Industrial Development Corp. of South Africa Ltd: 10%
- Government of Iran: 15%
- Government of Namibia: 3.5%
- Individual shareholders: 3%

The Namibian government, with a 3.5% shareholding, has the majority (51%) voting rights on issues of national interest.

In 2009, Rössing produced 3,519 tons of uranium, making it the third-largest uranium mine in the world.[12]

5.3 Paladin in Namibia and Malawi

Langer Heinrich Uranium (Pty.) Limited is 100% owned by Paladin Energy Ltd. The Langer Heinrich mine in Namibia produced 1,108 tons of uranium in 2009.[13] Expansion to a capacity of 1,423 tons of uranium per year was achieved in December 2009.

The uranium project at Kayelekera is the first large-scale mining project in Malawi. The Kayelekera uranium mine is 100% owned by Paladin (Africa) Limited, which has the following shareholders:

- The Australian mining company Paladin Energy Ltd.: 85%
- The Republic of Malawi: 15%

The Kayelekera uranium mine commenced production in mid-2009. Total production in 2009 amounted to 104 tons of uranium.[14] An annual production rate of 1,269 tons of uranium will probably be reached by 2012.

5.4 AngloGold Ashanti in South Africa

In South Africa, almost the entire production of uranium is in the hands of AngloGold Ashanti. The company produced 554 tons of uranium in 2009 as a by-product of gold mining.[15]

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[12] World Nuclear Association, 'Uranium in Namibia', updated December 2010, <http://www.world-nuclear.org/info/inf111.html>

[13] World Nuclear Association, 'Uranium in Namibia', 31 October 2010, <http://www.world-nuclear.org/info/inf111.html>

[14] World Nuclear Association, table 'World Uranium Mining', May 2010, **<**http://www.world-nuclear.org/info/inf23.html**>**

[15] AngloGold Ashanti, 'Annual Financial Statements 2009', page 298, <http://www.AngloGold.co.za/subwebs/informationforinvestors/reports09/AnnualReport09/f/AGA_AR09.pdf>
The reported figures (1.44 million lb of U3O8) have been converted into kilograms and uranium.
How many lb in 1 kg? The answer is 2.20462262185. <http://www.convertunits.com/from/lb/to/kg>
How many U in U3O8? The answer is 842 divided by 714 = 1.179272.
<http://uk.answers.yahoo.com/question/index?qid=20100627111356AA5QH3W>

6 Analysis of revenues to African host states

6.1 Characteristics of Namibia, Niger, Malawi and South Africa

Table 1 shows the ranking of the four countries reviewed with regard to development and corruption. It is notable that, of the four countries, only Niger participates in the Extractive Industries Transparency Initiative (EITI). Given the fact that the other countries also receive mid-to-low scores on the corruption index, it seems recommendable that the other countries also join the EITI, which aims to improve governance in resource-rich countries through the verification and full publication of company payments and government revenues from the extractives sector (oil, mining and gas).

Table 1: Ranking of Namibia, Niger, Malawi and South Africa in terms of development and corruption

	Namibia	Niger	Malawi	South Africa
Population (millions)[16]	2.1	16	15.5	49
Ranking Human Development Index 2010 (169 countries)[17]	105 (medium)	167 (low)	153 (low)	110 (medium)
Ranking 2010 Corruption Perceptions Index (168 countries)[18]	Ranking: 56 Score: 4.4	Ranking: 123 Score: 2.6	Ranking: 85 Score: 3.4	Ranking: 54 Score: 4.5
Participation Extractive Industries Transparency Initiative (EITI)[19]	No	Yes	No	No

6.2 Current and projected uranium production

In 2009, Africa accounted for 17% of uranium mined worldwide.[20] Table 2 below shows uranium production within the four key countries in 2009 and their expected production in 2012. The expected increases in production are striking. According to statements by the mining companies, a staggering 118% increase in uranium production can be expected within the four key host states in the period 2009–2012. The four countries accounted for all African uranium production in 2009, and will still account for the greatest part of uranium production in 2012, when production of uranium may also start in the Central African Republic, Botswana, Cameroon and Tanzania.[21]

[16] CIA World Factbook, 'Welcome', <https://www.cia.gov/library/publications/the-world-factbook/index.html>
[17] United Nations Development Programme (UNDP), 'Human Development Index (HDI) – 2010 Rankings', 4 November 2010, <http://hdr.undp.org/en/statistics>
[18] Transparency International, '2010 Corruption Perceptions Index (CPI), 26 October 2010, <http://www.transparency.org/policy_research/surveys_indices/cpi/2010/results> The index score is on a scale from 0 (perceived to be highly corrupt) to 10 (perceived to have low levels of corruption).
[19] EITI website, 'EITI Countries', <http://eiti.org/implementingcountries>
[20] World Nuclear Association, table 'World Uranium Mining', production figures 2003–2009, May 2010, <http://www.world-nuclear.org/info/inf23.html>
[21] World Nuclear Association, 'Uranium in Africa', updated December 2010, <http://www.world-nuclear.org/info/inf112.html>

Table 2: African uranium production, 2009-2012

	Namibia	Niger	Malawi	South Africa	Total Africa
Ranking 2009 world's uranium producers[22]	4	6	15	11	
Uranium production in 2009 (t pure U)	4,600	3,243	104	563	8,510
Expected production in 2012 (t pure U)	10,650	5,100	1,269	1,500	18,519
Expected increase 2009–2012	6,050	1,857	1,165	937	10,009
Percentage increase 2009–2012	132%	57%	1120%	166%	118%

6.3 Regulations on revenues in African host states

Table 3 summarises the primary potential sources of revenue for the host states. In most cases, the regulations and specific percentages have been reached through agreement with the respective mining companies. Specific details about the regulations can be found in Annexes A-E.

Table 3: Regulations on the primary sources of revenue from uranium mining for the host states

	Namibia Rio Tinto	Namibia Paladin	Niger SOMAÏR	Niger COMINAK	Malawi Paladin	South Africa Anglo-Gold
Corporate income tax rate (2009)	37.5%	37.5%	35% 1)	35% 1)	27.5%	variable 4)
Uranium royalty rate (2010)	3%	3%	5.5% 2)	5.5% 2)	1.5% 3)	variable 5)
Government stake in mining company	3.5%	0%	36.6%	31%	15%	0%
Uranium selling rights	None	None	900 tons per year in 2008 and 2009		None	None

1) Reduced to 30% from 2010 onwards.
2) The 5.5% reflects the mining royalty when the operating income is less than 20% of the export value. Higher rates apply when operating income is more than 20% of export value.
3) The royalty rate is 1.5% for the first three years of operation (ending 30 June 2012) and 3% for all subsequent years.
4) South Africa's mining tax is determined according to a formula based on profit and revenue from mining operations. In 2009, the formula comprised $Y = 43 – 215/X$, where Y reflects the tax rate to be levied. X is expressed as a percentage and calculated as follows: taxable income from gold mining divided by total revenue (turnover) from gold mining. Whenever X is 10, Y is 21.5.
5) Beginning in March 2010, South Africa will also levy mining royalties. Prior to 2010, South Africa had no mining royalties. The formula for uranium is: 0.5 + [EBIT/gross sales x 12.5] x 100. The royalties are 1.75% of gross sales when profits are 10% of gross sales.

A hypothetical calculation using hypothetical profits and turnover in South Africa reveals that AngloGold Ashanti generally pays less in corporate income tax and mining royalties than Rio Tinto in Namibia and AREVA in Niger. The taxes and royalties Paladin pays in Malawi are also significantly lower than these latter two. However, it should be noted that it is difficult to make a blanket judgement about the financial regulations of all mining operations because individual mines exhibit significant geological, technical and operational differences in terms of ore grade, capacity, production costs, lifetime, etc. For example, South African underground gold mining (which produces uranium as a by-product) is known to be more expensive than the dedicated uranium surface mining practiced in the

[22] World Nuclear Association, table 'World Uranium Mining', production figures 2003–2009, May 2010, <http://www.world-nuclear.org/info/inf23.html>

other countries. In addition, the mine exploited by Paladin in Malawi has a relatively short lifetime of approximately 10 years, compared to the more than 30 years that mines in Namibia and Niger have been producing uranium.

6.4 Comparison between Rio Tinto in Namibia and AREVA in Niger

The present operations of Rio Tinto in Namibia and AREVA in Niger are similar in terms of the amount of uranium exported and the long-term (in contrast to Paladin in Malawi) and dedicated (in contrast to uranium as a by-product in South Africa) nature of the mining. Based on Table 3 above, one would expect Niger's revenues to be greater than those of Namibia. The mining royalty percentages are higher, as is the government stake in the operations (including Niger's right to sell uranium on the world market since 2007). Tables 4 and 5 below indicate how these financial regulations and percentages were translated into revenues in the period 2005-2009.

Table 4: Revenues received by Niger and Namibia from uranium mining operations, 2005-2009

	2009	2008	2007	2006	2005	2005 - 2009
Uranium sold (x 1,000 tons)						
AREVA in Niger	??	3.1	3.4	3.2	3.4	
Rio Tinto in Namibia	3.0	3.0	3.3	3.2	3.0	
Revenues (EUR millions)						
Niger government	93.8	74.7	31.1	15.5	9.7	224.8
Namibian government	38.4	54.8	58.5	24.1	5.2	181.0
Difference Niger : Namibia	55.4	19.9	-27.4	-8.6	4.5	43.8

Table 4 above reveals that both Niger and Namibia earned significantly more revenues during the years 2007-2009 than they did in 2005 and 2006. This is largely due to the higher prices of uranium on the world market, as is explained in greater detail below.

Table 5: Breakdown of taxes and other contributions received by Niger and Namibia from uranium mining operations, 2005 – 2009

In EUR million	Niger	Namibia	Difference Niger: Namibia
Mining royalties	53.4	14.8	38.6
Corporate income taxes, dividends, taxes on dividends	89.4	132.6	-43.2
Selling rights SOPAMIN	57.5	-	57.5
Employment taxes	11.2	32.8	-21.6
Other	13.3	0.8	12.5
Total revenues	**224.8**	**181.0**	**43.8**

One of the main differences between Niger and Namibia is the uranium selling rights that Niger acquired 2007. This right is executed by the state-owned company SOPAMIN. In 2007, SOPAMIN sold 300 tons of uranium on the world market, and in 2008, it sold 830 tons. The amount for 2009 is not known. During the years 2007, 2008 and 2009 the revenues received by the Nigerien government from the operations of SOPAMIN were EUR 9.1 million, EUR 27.5 million and EUR 20.9 million, respectively.[23] These selling rights (which Namibia does not have) explain the majority of the difference in revenues between the two countries in 2008 and 2009, as well as the full 2005-2009

[23] ITIE Niger, "Rapport de mission de collecte et de reconciliation des revenus minier et petroliers, revenues des annees 2007, 2008 et 2009", December 2010, <http://www.itieniger.ne/content_rap22.php>

period. It should be noted, however, that Namibia earned more from corporate income and employment taxes over the period 2005-2009 than did Niger. These sources of revenue are further analysed below.

Another difference between Niger and Namibia is the mining royalty rate. For Niger, royalties remained at 5.5% of total sales for the entire 2005 – 2009 period. In 2007, the Namibian government set the mining royalty at 3%; before that time no rate had been set in law. It should be noted that the mining royalty payments to Namibia in Table 5 above do not reflect all mining royalties Rio Tinto paid over the period 2007-2009. The company is still catching up with debts incurred through not paying royalties up until 2007. This situation is explained in greater detail below.

The differences in employment taxes are also striking. Rio Tinto's payments increased from EUR 6.1 million in 2008 to EUR 10.4 million in 2009, primarily due to salary increases. In 2009, the total amount of employment taxes paid by AREVA was EUR 3.4 million. During the course of this study, no explanation was found for the difference between Niger and Namibia in this area.

The differences in revenues from taxable corporate profits (i.e. corporate income tax, dividends, income tax on dividends, SOPAMIN's selling rights) are further analysed in Table 6 below. In 2005 and 2006, the export value of the uranium sold was significantly lower than during 2007-2009. This explains why revenues from taxable corporate profits are low in 2005 and 2006 for both countries. During 2006-2008, Rio Tinto in Namibia was able to sell uranium at much higher prices than Niger. Niger sells its uranium to AREVA and other customers for a price set by the government in agreement with these customers. AREVA and the other customers then use it in their nuclear reactors. Rio Tinto's Rössing, on the other hand, sells its uranium directly the world market. The differences in prices could be explained by the fact that Rössing was able to sell some of its uranium on the spot market when prices were high (see Annex F), while Niger was bound to long-term contracts set when uranium prices were lower. Niger's situation in this respect was improved when Niger acquired selling rights in 2007.

Compared to 2008, the export value of the uranium sold by Rio Tinto in 2009 was significantly lower. This also explains Namibia's declining revenues from taxable corporate profits. 2009 revenues were also affected by the fact that Rössing made renewed investments to increase production during this year.

Table 6: Export value of uranium per kilogram sold and revenues received by Niger and Namibia from taxable profits, 2005-2009

EUR million	2009	2008	2007	2006	2005	2005 - 2009
Export value of uranium per kilogram sold (EUR)						
Rio Tinto in Namibia	93.7	124.5	105.0	57.5	39.4	
Niger (including AREVA & SOPAMIN selling rights)	??	96.6	63.9	38.4	35.1	
Difference		27.9	41.1	19.1	4.3	
Revenues from corporate profits						
Namibia	13.0	48.6	52.5	18.5	0.0	132.6
Niger (including AREVA & SOPAMIN selling rights)	71.2*	55.4	15.7	3.4	1.2	146.9
Difference Namibia : Niger	**-58.2**	**-6.8**	**36.8**	**15.1**	**-1.2**	**-14.3**

* = This figure likely includes advance payments for 2010

The period 1970s–2006

In Namibia, uranium mining began in 1976. At the end of 2009, the Rössing mine operated by Rio Tinto had supplied 94,963 tons of uranium. Uranium mining in Niger also started in the 1970s. In November 2006, the cumulative production from the country exceeded 100,000 tons. It has been estimated that between the 1970s and 2006, the government revenues for Niger were equivalent to about 13% of the total value of exported uranium.[24] Calculations of the revenues of the Nigerien government for the years 2005 and 2006 were consistent with this estimate. Over 2005, the revenues from uranium mining operations were 8%, and over 2006 they were 13%. For Namibia, the government revenue from uranium mining operations amounted to just 4% of the total value of exported uranium in 2005 and 13% in 2006. Other revenue collected since the 1970s is unknown. In contrast to Niger, Namibia did not require the payment of mining royalties during this period. It is apparent that from 2007 onwards – also due in part to high uranium prices – both Namibia and Niger were finally successful in obtaining more revenue from uranium mining.

The period 2005–2009

Table 7 below shows the revenues the Nigerien and Namibian government received from the operations of Rio Tinto and AREVA during the period 2005–2009, related to the value of the exported uranium. The total revenues generated by Niger and Namibia together comprise approximately 17% of the export value over the past five years.

It should be noted that the percentage for all exports from Africa (including the operations of Paladin and AngloGold Ashanti) is probably slightly lower than 17%. Due to a lack of available figures, the calculation could not be made for Paladin and AngloGold Ashanti. On the one hand, Paladin and AngloGold Ashanti pay lower taxes and royalties, lowering the percentage. On the other hand, the operations by Paladin and AngloGold Ashanti were relatively small during the period 2005–2009, compared to Rio Tinto in Namibia en AREVA in Niger.

Table 7: Revenues received by the Nigerien and Namibian governments as a percentage of uranium export values, 2005–2009

EUR millions	2009	2008	2007	2006	2005	2005-2009
AREVA in Niger						
Revenues Nigerien government	93.8*	74.7	31.1	15.5	9.7	224.8
Export value	287.2	302.1	218.1	121.4	119.2	1,048.0
Revenues as a % of exports	32.7%	24.7%	14.3%	12.8%	8.1%	21.5%
Rio Tinto in Namibia						
Revenues Namibian government	38.4	54.8	58.5	24.1	5.2	181.0
Export value	276.9	372.5	351.6	182.2	117.0	1,300.2
Revenues as a % of exports	13.9%	14.7%	16.6%	13.2%	4.4%	13.9%
AREVA in Niger and Rio Tinto in Namibia						
Revenues	132.2*	129.5	89.6	39.6	14.9	405.8
Export value	564.1	674.6	569.7	303.6	236.2	2,348.2
Revenues as a % of exports	23.4%	19.2%	15.7%	13.0%	6.3%	17.3%

* = This figure likely includes advance payments for 2010

[24] Khadija Sharife, blog 'Niger: Fissile Policies, Fissionable Politics', 16 January 2009, <http://www.afrika.no/Detailed/17819.html>

6.5 The importance of uranium prices for host states

The higher the uranium prices on the world market, the greater the revenue for host states. Many regulations aiming to generate revenue for the host states are linked to the price of uranium. This includes regulations that are based on uranium sales (e.g. mining royalties), regulations that are based on the taxable profits of corporations (e.g. corporate income tax, stakes in mining companies), and individual selling rights.

It should be noted uranium prices were extremely high that during 2007-2009, much higher than during the period 1990-2003. Prices began rising in 2004, peaked in 2007, and have been slowing declining since then. The full historical trend of uranium prices is mapped in Annex F. In 2005, prices for buyers acquiring long-term or spot contracts stood at EUR 64 and EUR 60 per kilogram, respectively. The long-term picture for uranium prices remains quite undetermined. This is especially true as uranium prices may no longer reflect market fundamentals. Since 2004, hedge funds, pension funds and investment banks have increasingly been entering the uranium market. Beginning in 2005, their presence as speculators contributed to the high price of uranium.[25] Market fundamentals would dictate that supply catch up with demand due to extra investments in mining when the prices are high. However, the increasing presence of the financial sector has increased uncertainty as to whether further investment will bring about sufficient returns.

6.6 Getting a better deal?

It is notable that apart from Malawi, which is new to uranium mining, all of the countries examined in this report have made changes to financial regulations on uranium mining in their favour during the last three or four years.

Over 2005 and 2006, the combined revenue of the Nigerien government from uranium mining amounted to a meagre EUR 25 million. In 2007 and 2008, Niger successfully negotiated selling rights for uranium, and would also receive a better price for the uranium, sold mostly to AREVA. The government of Niger was able to sell 300 tons of uranium in 2007 and 830 tons in 2008. The figure for 2009 is not known. In 2013/2014, AREVA plans to start production at the Imouraren mine. The State of Niger has negotiated selling rights for 33.35% (1,667 tons) of the annual production, which is expected to be 5,000 tons. Since 2010, Niger also has the right to sell uranium from the existing mining operations of SOMAÏR and COMINAK based on its stake in each mining company (i.e. 36.6% and 31%, respectively).

In late 2006, the State of Namibia decided that uranium mining companies should pay royalties. At first these were set at 2% of the market value of the minerals. Soon after, the royalty payable on uranium sales was raised to 3%. In April 2009, the government decided to increase the royalties to be paid by Rössing Uranium to 6% of the market value, while the royalties to be paid by Paladin remained at 3%. The 6% royalty payable by Rössing Uranium was the result of the settlement of a dispute over royalties between Rössing and the government of Namibia. The company is now catching up with its payments. At some point in the future, Rössing expects to revert back to the 3% rate, the same applies to other uranium mining companies, but that date is not yet known.

[25] The Ux Consulting Company, presentation by president Jeff Combs 'Fueling the Future: An Update', 9 September 2006, <http://www.world-nuclear.org/Search.aspx?search=hedge%20funds>

South Africa has decreed that a Mineral and Petroleum Resources Royalty will become payable starting 1 March 2010. The royalty provides compensation to the State for the country's permanent loss of non-renewable resources. The two critical determinants for the calculation of the royalty to be paid are gross sales and earnings before interest and taxes (EBIT). The formula for unrefined mineral resources is: 0.5 + [EBIT/Gross sales x 12.5] x 100. If the EBIT is 10% of the gross sales, the royalty payment will be 1.75% of gross sales.

Malawi has made a deal with Paladin that it will not change its taxes or regulations on other financial contributions for ten years with regard to the Kayelekera mine. With royalty payments estimated at a meagre EUR 3.9 million for the most productive years of the mine, this deal leaves Malawi very dependent on high uranium prices and profits from the mine for significant revenues.

6.7 A note on corporate income taxes

As mentioned above corporate income taxes depend heavily on the uranium prices on the world market, as far as producers are flexible to sell some of their production outside their long-term commitments. However, it should be noted that corporate income taxes are often influenced by other factors. In terms of transparency, as well as actual revenues, corporate income taxes have proven the most difficult to analyse of all the different taxes and contributions. As corporate income taxes form a main part of the revenues, it is important that future research further investigate this aspect.

All of the four host states examined here offer corporations the possibility of depreciating mining-related capital expenditures at an accelerated pace and compensating for losses in earlier periods. Through this mechanism, tax payments are delayed or may never be received by the host states. For example, Rössing listed some 20% of corporate income tax as deferred tax (owed to the host state, but it is not clear whether the government will ever actually receive the money) over the period 2005–2009. Only 80% of the calculated corporate income tax (37.5% of profit) has actually been paid to the host state.

In general, corporate income taxes may be further reduced by multinational corporations through the use of intra-group transactions which move their costs and earnings to jurisdictions where the corporate income tax is most favourable to the company. This study has not looked into the use of such (legal and illegal) tax avoidance/evasion mechanisms, thus it is not clear whether and to what extent these mechanisms are used by the multinational corporations reviewed in this report.

7 Analysis of transparency among mining companies

7.1 Mining agreements

Mining companies and host states generally sign a mining agreement (investment contract) before investment in production occurs. In such agreements, the host state and the investor identify the key elements relating to the investment (e.g. fiscal, economic, social and environmental aspects). Investment contracts often also contain “stabilisation” clauses that either preclude the application of, or require compensation for, new or altered regulatory measures that affect the investment. Where the contract does not specify details, the domestic law of the host state is applicable. In addition to their law-making function, investment contracts determine which law applies to the interpretation of the contract in the event of a dispute and which court or tribunal will be responsible for resolving a dispute.[26]

Mining agreements are usually not made public, and in the course of the study it was not possible to attain access to one. In a recent study, the NGOs Revenue Watch and Transparency International found that only five out of 41 countries publish their contracts in full.[27]

With regard to the agreements between the companies and host states examined here, Rio Tinto stated that it has never signed a mining agreement with Namibia. The company simply has to abide by the Namibian laws. It is not known whether Paladin has signed a mining agreement with Namibia, as the company did not respond to numerous requests for input for this study. However, the fiscal details of the mining agreement Paladin has signed with Malawi have been made public. The details show that Paladin has received a number of tax exemptions and has successfully negotiated a freeze on rates for taxes and other contributions it now makes for the coming ten years.

AREVA has probably signed a mining agreement for its present investments in the Imouraren mine, but the company was unwilling to give specifics about the financial stipulations in the agreement. However, through the website of the Niger Publish-What-You-Pay NGO ROTAB, some details about the agreement could be found.

AngloGold Ashanti produces uranium as a by-product of gold, and, as far as is known, has no specific mining agreement with the government of South Africa. However, it is subject to the mining regulations of South Africa.

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[26] International Institute for Environment and Development, Lorenzo Cotula, report ‘Investment contracts and sustainable development, how to make contracts for fairer and more sustainable natural resource investments’, 2010, <http://pubs.iied.org/pdfs/17507IIED.pdf>
International Institute for Sustainable Development, Carin Smaller and Howard Mann, ‘A thirst for distant land, foreign investment in agricultural land and water’, 2009, <www.iisd.org/pdf/2009/thirst_for_distant_lands.pdf>

[27] Revenue Watch and Transparency International, `2010 Revenue Watch Index', October 2010, <http://www.revenuewatch.org/rwindex2010/pdf/RevenueWatchIndex_2010.pdf>

7.2 Transparency regarding financial payments to host states

Of the four multinational corporations examined in this study, Rio Tinto provided the most transparency with regard to its payments of taxes, royalties, and other financial contributions. These could all be found in the annual report by Rössing, and Rio Tinto publishes a profit and loss account for its Rössing operations in Namibia. AREVA has been catching up to some extent with Rio Tinto with regard to transparency about payments. In January 2011, the EITI published a report containing the figures of the payments of taxes and other contributions to the Niger government for the years 2007, 2008 and 2009. Despite these improvements by AREVA, the figures published by Rio Tinto are still more transparent and complete, and thus allow for more analysis.
AngloGold Ashanti's annual reports provide little transparency with regard to its uranium operations as a small part of its gold operations. However, the company does report its payments of taxes and other contributions on a country-by-country basis.
Paladin was found to be the least transparent. Of the four companies, it is the only company that does not support the Extractive Industries Transparency Initiative (EITI), and it did not respond to many requests for input and review for this study. Its annual reports do not include payments of employment taxes, and payments of corporate income taxes and royalties are not listed on a country-by-country basis.

7.3 Country-by-country reporting

Increasingly, mining companies are publishing information about their payments to the host states. An important step towards transparency lies in companies reporting these on a country-by-country basis. Rio Tinto and AngloGold Ashanti currently do so. However, it should be noted that at present these companies only publish a figure for each category and do not clarify the logic of the payments they have made in relation to the regulations of the host states. During this study it was found that corporate income taxes are still especially difficult to analyse. This is due to a lack of clarity about the possible methods of reducing corporate income taxes, which is insufficiently accounted for in the public reports of the companies.

US legislation for disclosing payments to governments

In July 2010, President Obama signed the *Dodd-Frank Wall Street Reform and Consumer Protection Act* into law. Section 1504 of the Act requires that for every mining project mining companies disclose their payments to governments in their annual reports. These payments will include taxes, royalties, fees (including licence fees), production entitlements, bonuses and other material benefits. The Act states that the guidelines of the Extractive Industries Transparency Initiative (EITI) should be followed in this respect. The US Securities and Exchange Commission will define the final rules before 17 April 2011, and these will take effect for the annual report period that ends not earlier than one year after the final rules have been published. In other words, if a company reports per calendar year, the 2012 annual report will be the first in which the payments must be disclosed.[28] The disclosure requirements are applicable to companies listed on US stock exchanges and, in some instances, other publicly traded companies. As both AngloGold Ashanti and Rio Tinto stocks are traded on US stock exchanges, the present country-by-country reporting by these companies may be in anticipation of this new law.

[28] One Hundred Eleventh Congress of the United States of America, 'Dodd-Frank Wall Street Reform and Consumer Protection Act', 5 January 2010, <http://www.gpo.gov/fdsys/pkg/BILLS-111hr4173enr/pdf/BILLS-111hr4173enr.pdf>

8 Conclusions and recommendations

The predictability of revenues

The most important revenues for host states from uranium mining in Africa were found to be corporate income taxes, selling rights, mining royalties and (to a lesser extent) employment taxes, but there is a great deal of difference between the predictability and stability of these sources of revenue. Selling rights and royalties are generally more stable than corporate income tax as they do not depend directly on the profits of the mining companies, which can be highly volatile. Revenues from mining royalties depend primarily on uranium prices on the world market, but also on agreed prices and quantities in long-term contracts signed with customers.

Of all of the potential sources of revenues, those related to corporate earnings are the least stable and predictable. These sources include corporate income tax (a percentage of taxable profits), taxes on dividends, and benefits from holding a stake in the mining company (dividend, retained earnings). These revenues are affected by uranium prices, production costs and by companies being able to reduce their corporate income tax liability through mechanisms that compensate them for losses in earlier periods and/or through the accelerated depreciation of investments.

In general, corporate income taxes may be further reduced by multinational corporations through the use of intra-group transactions that move their costs and earnings to jurisdictions where the corporate income tax rate is most favourable to the company. This study has not looked into the use of such (legal or illegal) tax avoidance/evasion mechanisms, thus it is not clear whether and to what extent these mechanisms are used by the multinational corporations reviewed in this report. However, the frequent use of these mechanisms by multinational corporations in general likely reduces the contribution of corporate income tax as a source of revenue for host states and contributes to its unpredictability.

The right to sell uranium (as is done by SOPAMIN in Niger) has provided an additional and somewhat stable source of income for the Nigerien government. SOPAMIN's ability to sell a percentage of the uranium produced directly on the global market means that it is not as dependent on the profits or earnings of the multinational corporation (i.e. AREVA). Of course, the amount of revenue that Niger receives for the uranium is dependent on the market price. However, it is important to note that SOPAMIN has the *right* to sell a percentage of the uranium, it is not required to do so. So in periods where the uranium price is high, SOPAMIN can make use of this right, and when the price is low, it can simply decline make use of the right and allow SOMAÏR en COMINAK to sell the full production.

Uranium prices

Many of the sources of revenue for host states depend heavily on the price of uranium on the world market. The period 2007–2009 was been somewhat unique in this respect. During the period 1990-2003, prices were much lower. Beginning in 2004, prices rose sharply, peaked in 2007, and have been slowly decreasing since then, although 2010 saw prices rise again slightly over 2009 levels.

Due to the high prices during the 2007–2009 period, the earnings and profits of mining companies have been risen. As a result, revenues for the host states from mining royalties (which are usually a percentage of sales) and corporate income taxes (which are usually a percentage of the earnings) increased as well. However, there is no guarantee that prices will not fall back to the low levels seen

during 1990–2003, which would mean a significant reduction in revenues from royalties and corporate income taxes.

Changing regulations on revenues for host states

Some African host states have recently moved to strengthen their financial regulations on uranium mining in order to receive greater revenues from these operations. In 2007, Namibia decided that uranium mining companies should pay royalties of 3% of sales. In 2010, South Africa introduced mining royalties of 1.75% of gross sales when profits are 10% of gross sales.

However, the move that has been the most remarkable in generating additional revenues for the host state has been Niger's acquisition of uranium selling rights, first negotiated with AREVA in 2007. This right is executed by the state-owned company SOPAMIN. During the years 2007, 2008 and 2009 the revenues received by the Nigerien government from SOPAMIN amounted to EUR 9.1 million, EUR 27.5 million and EUR 20.9 million respectively.

From 2013/2014 onwards, the Imouraren mine, with AREVA as the main shareholder, will enter into production. The government of Niger will have the right to sell 33.35% of the uranium produced, which is estimated to reach 5,000 tons annually. Also, for the existing mining operations by SOMAÏR and COMINAK, since 2010 Niger has the right to sell uranium according to its stake in the mining company (i.e. 36.6% and 31%, respectively).

Comparison of taxes and other contributions

Per kilogram of uranium sold, this study found that Paladin in Malawi and AngloGold Ashanti in South Africa pay less taxes and other financial contributions than Rio Tinto in Namibia and AREVA in Niger.

With a relatively low percentage of mining royalties to be paid and many opportunities for Paladin to reduce its corporate income tax in the early years of operations, Malawi is not expected to obtain much revenue from Paladin's uranium mining operations if uranium prices continue to decline. However, given the physical and operational differences between mines (e.g. uranium ore grade, capacity, production costs, lifetime, etc.), it is difficult to make a judgement about the regulations relating to revenues for the host states with regard to each mining operation. This applies to South Africa as well as Malawi.

In the period 2005 – 2009, the revenues received by Niger from the AREVA-dominated mining operations amounted to EUR 225 million. In the same period, Namibia received EUR 181 million in revenue from the Rio Tinto-dominated mining operations. A notable difference is the royalty rate, which is 3% in Namibia and 5.5% in Niger. In the period 2005 – 2007, Namibia received more revenue from corporate profits, but Niger has been catching up through the acquisition of selling rights.

A note on corporate income taxes

In terms of transparency, as well as actual revenues, corporate income taxes have proven the most difficult to analyse of all the different taxes and contributions. As corporate income taxes form a large part of revenues received by host states, it is important that future research further investigate this aspect. Corporate income taxes are difficult to analyse due to mechanisms such as accelerated depreciation and compensation for losses in early years. All of the four companies investigated here were permitted an accelerated depreciation of investments and for most companies it became clear that compensation for losses also occurs.

These mechanisms reduce the taxes to be paid as well as make it difficult to analyse whether payments are in line with the regulations of the host states. While there is a trend among mining companies to report taxes and other contributions on a country-by-country basis, which is a positive step, a great deal more transparency is needed with regard to the payment of corporate income tax.

Transparency of companies

Of the four companies reviewed, Paladin was by far the least transparent. It is the only company in the research that does not support the Extractive Industries Transparency Initiative (EITI) and was the only company unwilling to answer requests for information for this study. Payments such as employment taxes and customs duties could not be found in its annual reports, while payments of corporate income taxes and royalties were not listed on a country-by-country basis.

Rio Tinto provided most transparency with regard to taxes and other contributions to the Namibian government by its majority owned company Rössing Uranium. Rio Tinto, along with AngloGold Ashanti, reports its tax payments on a country-by-country basis.

AREVA cooperates in the process of comparing company payments and government revenues in Niger. In January 2011, an EITI report which included payments/revenues over 2007, 2008 and 2009 was published. By contributing to this report AREVA is following in the footsteps of Rio Tinto with regard to transparency about payments. It should however be noted that the EITI report only contains the figures of the payments of taxes and other contributions to the Nigerien government. Rio Tinto publishes a profit and loss account for its Rössing operations in Namibia. This allows for more transparency, and thus more analysis. Among the four countries examined in this report, Niger is the only one that participates in the EITI.

The agreements (investment contracts) that uranium mining companies sign with host states have a law-making function and often include tax exemptions and stabilization clauses. Such mining agreements are generally not made public. Paladin has signed a mining agreement with the government of Malawi, including tax exemptions and a clause which guarantees that the company will not face any increase in taxes or other contributions in the coming ten years. The fiscal details of this mining agreement have been made public. For Niger, most fiscal details of such agreements could be found without gaining access to the mining agreements themselves. The agreements between AngloGold Ashanti and South Africa and Rio Tinto and Namibia did not seem to contain specific clauses on taxes and other contributions that differ from national laws.

Policy recommendations to host states

Based on these findings and the analysis, the following policy recommendations for host state governments can be made. Host states should:

On investment in uranium mining

- Given the uncertainty and volatility of revenues and the major risks to health, safety and environment that uranium mining entails, seek investment in sustainable alternatives such as renewable energy and the sustainable tourism industry before considering uranium mining.
- In countries that do allow uranium mining, make investment agreements public and ensure that the proceeds benefit the welfare of the communities and workers affected by the mining operations.

On types of revenue streams

- Not privilege corporate taxation over royalty systems. Corporate income taxes are based on taxable corporate profits, which are heavily dependent on the uranium price, production costs, (often non-transparent) corporate structures, and the cycle of the mine. However, even if a uranium mining company is not making taxable profits but still exporting large quantities, royalties can be a reliable source of revenue. This is particularly important for resource rich countries with limited capacity to administer contracts and with major needs and expectations over the short term.
- Ensure that revenues earned flow to the communities affected by mining operations.

On investment agreements

- Ensure that investors' rights and responsibilities are balanced and that unambiguous and precise language is included.
- Avoid inclusion of one-sided and often secretive investor-to-state dispute settlement mechanisms, and exhaust local remedies for dispute settlement before turning to international tribunals.
- Include assurances that the dispute settlement mechanism be transparent and open to hearing the perspective of different stakeholders, including affected communities and workers.
- Maintain policy space and include an explicit recognition of the right of government to regulate and to formulate policies of general interest. For example, limit claims over "indirect expropriation" by which investors can challenge government regulations/actions that may reduce the value of a foreign investment.
- Include a substantive social and environmental dimension alongside financial aspects in the legally binding part of the agreement.
- Ensure that both home and host states have responsibility for cooperating and upholding the investment contract.
- Avoid translating stipulations and measures set out in investment contracts into national law.

On transparency

- Participate in the EITI.
- Make investment contracts signed with mining companies public.
- Include assurances that the dispute settlement mechanism be transparent and open to the public.

Recommendations to multinational corporations

Based on the findings and analysis, the following policy recommendations for multinational corporations involved in uranium mining can be made. Multinational corporations should:

On investment agreements

- Avoid inclusion of one-sided and often secretive investor-to-state dispute settlement mechanisms, and exhaust local remedies for dispute settlement before turning to international tribunals.
- Allow dispute settlement mechanisms to be transparent and open to hearing the perspective of different stakeholders, including affected communities and workers.
- Allow host governments to maintain policy space. For example, corporations should not insist on the right to use "indirect expropriation" to challenge government regulations/actions that may reduce the value of a foreign investment.

- Allow the inclusion of a substantive social and environmental dimension alongside financial aspects in the legally binding part of the agreement.
- Do not insist on having stipulations and measures set out in investment contracts translated into national law.

On transparency

- Ensure that timely, accurate and verifiable information is disclosed on all material matters regarding the corporation's activities, structure, financial situation, financial and non-financial performance, ownership and governance. This information should be disclosed for the enterprise as a whole, broken down on a country-by-country basis, and, where appropriate, along business lines or geographic areas.
- Apply high quality standards for accounting and financial as well as non-financial disclosure, including environmental and social impact assessments and reporting, as well as human rights. The standards or policies under which information is compiled and published should be reported. In this sense, corporations should endorse, utilise and participate fully in international initiatives and standards on transparency and disclosure such as the EITI, the OECD Guidelines for Multinational Enterprises and the Global Reporting Initiative (GRI).
- Disclose all related party transactions, including country-by-country disaggregated payments to governments.

On payment of revenues to host states

- Follow the principles for fair payment of taxes and other financial obligations laid out in the OECD Guidelines for Multinational Enterprises and the MVO Platform's "CSR Frame of Reference".[29]
- Ensure that the proceeds benefit the welfare and sustainable development of the communities and workers affected by the mining operations.

[29] MVO Platform (2007), *MVO Referentiekader*. MVO Platform, Amsterdam. Available at http://mvo-platform.tuxic.nl/files/Publicaties/MVO%20referentiekader%20NL_tweede%20druk.pdf. Accessed 21 February 2010.

ANNEX A: Factsheet AREVA in Niger

Niger and uranium mining

Niger

Niger is a landlocked sub-Saharan nation whose economy depends on subsistence crops, livestock, uranium deposits, and gold deposits. Niger became independent from France in 1960. Presently, it has a population of almost 16 million people. It is one of the poorest countries in the world, ranking close to last on the United Nations Development Fund index of human development.[30]

In 2009, Niger was the world's sixth-ranking producer of uranium. The country provided for over 6 percent of the world's uranium mining output. Over the last ten years the annual uranium production of Niger has been stable at around 3,100 tons.[31] Uranium mining in Niger started in the 1970s. In November 2006, the cumulative production from the country passed 100,000 tons. Uranium is extracted in northern Niger, in the Arlit open-pit mine (SOMAÏR) and the Akouta underground mine (COMINAK).[32]

Uranium mining companies in Niger

Since the start of uranium mining in Niger, the French AREVA group has been the main mining company. AREVA is more than 90 percent owned by the French state.[33] Two joint ventures led by AREVA presently account for all uranium mining in Niger.

The Société des Mines de l'Air (SOMAÏR) produces uranium from the Arlit open-pit mine and has the following shareholders:

- France's AREVA group: 63.4%
- The State of Niger: 36.6%

The Compagnie Minière d'Akouta (COMINAK) produces uranium from the Akouta underground mine and has the following shareholders:

- France's AREVA group: 34%
- The State of Niger: 31%
- Japan's Overseas Uranium Resources Development Co. (OURD):[34] 25%
- Spain's Enusa Industrias Avanzadas, S.A. (Enusa):[35] 10%

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30 CIA World Fact Book, 'Niger', <https://www.cia.gov/library/publications/the-world-factbook/geos/ng.html>

31 World Nuclear Association, table 'World Uranium Mining', production figures 2003–2009, May 2010, <http://www.world-nuclear.org/info/inf23.html>
International Monetary Fund, 'IMF Country Report No. 09/70; Niger: Selected Issues and Statistical Appendix', production figures 2000–2007, February 2009, <http://www.imf.org/external/pubs/ft/scr/2009/cr0970.pdf>

32 World Nuclear Association, 'Uranium in Niger', October 2010, <http://www.world-nuclear.org/info/inf110.html>

33 As of December 31, 2009, the French state holds, directly or indirectly, more than 90% of the shares issued by AREVA and more than 94% of its voting rights. AREVA group, '2009 Reference Document', 29 March 2010, <http://www.AREVA.com/mediatheque/liblocal/docs/pdf/groupe/pdf-doc-ref-09-va.pdf>

34 OURD is 100% owned by the private sector. OURD website, 'About us', <http://www.ourd.co.jp/english/corporate.html>

35 Enusa is a 100% state-owned Spanish company. Enusa website, 'About us', <http://www.enusa.es/eng/enusa/sobreenusa.html>

The Société du Patrimoine des Mines du Niger (SOPAMIN) holds the shares of the State of Niger in these uranium companies.[36] SOPAMIN also executes the right, acquired by the State of Niger, to sell some of the uranium produced by the uranium companies on the world market.

Investment plans and employment

Uranium production 2009

In 2009, SOMAÏR produced 1,808 metric tons of uranium. COMINAK produced 1,435 tons, yielding sales of EUR 100.6 million.[37] Total production amounted to 3,243 tons of uranium in 2009.

Who sells the uranium?

The uranium produced by SOMAÏR and COMINAK is sold directly to AREVA, OURD, Enusa and SOPAMIN, which then resell it to their own customers. The purchase price paid to SOMAÏR and COMINAK is set by the Niger government, after consulting the various shareholders. The purchase price is determined following market prices.[38]

According to the OURD website, the product share from COMINAK is 46.7 percent to AREVA, 43.3 percent to OURD and 10 percent to Enusa.[39] According to AREVA, in its 2009 Reference Document, 46.4 percent of production at COMINAK is likely to be sold/distributed to AREVA,[40] while the entire mining production of SOMAÏR is likely to be sold/distributed to AREVA.[41]
However, the figures on the OURD website and in AREVA's 2009 Reference Document do not take into account the right the government of Niger has successfully negotiated in 2007 and 2008, to sell some of the uranium produced by the uranium companies on the world market. SOPAMIN executes this right. For each of the years 2008 and 2009, the selling rights amounted to 900 tons of uranium. This would put the product share of SOPAMIN at more than 28 percent for these years.[42] According to AREVA, from 2010 onwards SOPAMIN will likely sell all the uranium corresponding to its share in COMINAK (31%) and SOMAÏR (36.6%).[43]

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[36] AREVA, 'Niger and uranium', January 2009, <http://www.AREVA-np.com/common/liblocal/docs/press/AREVA_Niger_janvier09_VA.pdf>

[37] AREVA group, 'SOMAÏR: a growing uranium producer' and 'COMINAK: operation of an unparalleled mine', <http://www.AREVA.com/EN/operations-658/worldwide-mining-operations-meeting-demand-for-uranium-through-global-operations.html>

[38] AREVA, "Niger and uranium", January 2009, <http://www.AREVA-np.com/common/liblocal/docs/press/AREVA_Niger_janvier09_VA.pdf>

[39] Overseas Uranium Resources Development Co., Ltd. (OURD), 'AKOUTA Development Project', <http://www.ourd.co.jp/english/niger.html>

[40] AREVA group, '2009 Reference Document', 29 March 2010, page 80, <http://www.AREVA.com/mediatheque/liblocal/docs/pdf/groupe/pdf-doc-ref-09-va.pdf>

[41] AREVA group, '2009 Reference Document', 29 March 2010, page 80, <http://www.AREVA.com/mediatheque/liblocal/docs/pdf/groupe/pdf-doc-ref-09-va.pdf>

[42] Platts magazine Nuclear Fuels, 'AREVA-Niger agreement will pump more money into U mine development', 28 January 2008.
Reuters, article 'Niger state to increase direct sales of uranium', 15 January 2008, <http://www.reuters.com/article/idUSL1580648420080115?sp=true>
The combined production figures for COMINAK and SOMAÏR amounted to 3,032 tons in 2008 and 3,243 tons in 2009. Assuming exported figures are the same, this would put the selling rights of SOPAMIN at 28.7% (1,800 divided by 6,275).

[43] Response to draft-factsheet by AREVA, e-mail by Didier Fohlen, Business Group Mines, Vice President, Environment & Social Responsibility, on 17 December 2010.

Expected production in 2012

The AREVA group expects the production by SOMAÏR to gradually reach 3,000 metric tons by 2012, in particular by mining low-content ore through heap-leaching, while for COMINAK, the group does not report expanding production.[44]

In April 2009 the Export Import Bank of China approved a loan of over USD 95 million to the government of Niger. Beijing is seeking to speed up the development of the Azelik mine in the north of the Agadez region, which requires investment of over USD 300 million.[45] Trial production will start before the end of 2010. The aim is to yield 700 tonnes a year.[46] The company Société des Mines d'Azelik S.A. (SOMINA) will produce the uranium. SOMINA has the following shareholders:

- China Nuclear International Uranium Corporation (SinoU): 37.2%
  SinoU is a subsidiary of China National Nuclear Corporation (CNNC), which is majority owned by the Chinese government.
- The State of Niger: 33%
- ZXJOY Invest (Chinese): 24.8%
- Trendfield Holdings Ltd.: 5%
  The parent company, Trendfield Energy and Resources, is a China-based 'private international mining and consulting firm'.[47]

The start of operations is planned for the Imouraren mine in 2013. It is expected to become the second-largest open-pit uranium mine in the world. Production is estimated at almost 5,000 tons per year for over 30 years. On 5 January 2009, the AREVA group was granted the operating permit and signed the mining agreement with the State of Niger. The company, Imouraren SA, created in March 2009, will produce the uranium. Imouraren SA has the following shareholders:

- AREVA NC Expansion: 66.65% (owned 85% AREVA, 15% Kepco/KHNP). Kepco/KHNP refers to the South Korean (wholly government-owned) Korea Electric Power Corporation (Kepco), to which the Korea Hydro & Nuclear Power Co. (KHNP) is a subsidiary.
- The State of Niger: 33.35%

Employment

The total employment number for all AREVA Niger operations as provided by AREVA in November 2010 equals to 2,650, including 2,230 as permanent staff. In addition, there were about 2,300 contractors working for the operating companies.[48]
According to the website of AREVA in November 2010, SOMAÏR employed around 1,000 staff and COMINAK's workforce comprised around 1,200 employees. Of all the employees, 98% were Nigerien.[49] The investment in the Imouraren mine is expected to create almost 1,400 jobs.[50]

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[44] AREVA group, 'SOMAÏR: a growing uranium producer' and 'COMINAK: operation of an unparalleled mine', <http://www.AREVA.com/EN/operations-658/worldwide-mining-operations-meeting-demand-for-uranium-through-global-operations.html>

[45] Africa Mining Intelligence, 'China Puts Cash on the Table in Niger; uranium', 29 April 2009.

[46] Reuters, 'UPDATE 1-CNNC plans 2015 overseas uranium output of 2,500 T', 16 November 2010, <http://www.futurespros.com/news/futures-news/update-1-cnnc-plans-2015-overseas-uranium-output-of-2,500-t-1000004454>

[47] World Nuclear Association, 'Uranium in Niger', October 2010, <http://www.world-nuclear.org/info/inf110.html>

[48] Response to draft-factsheet by AREVA, e-mail by Didier Fohlen, Business Group Mines, Vice President, Environment & Social Responsibility, on 17 December 2010.

[49] AREVA group, "SOMAÏR: a growing uranium producer" and "COMINAK: operation of an unparalleled mine", <http://www.AREVA.com/EN/operations-658/worldwide-mining-operations-meeting-demand-for-uranium-through-global-operations.html>

[50] AREVA, "Niger and uranium", January 2009, <http://www.AREVA-

Niger and the Extractive Industries Transparency Initiative (EITI)

Niger participates in the Extractive Industries Transparency Initiative (EITI), which is a coalition of governments, companies, civil society groups (NGOs), investors and international organisations. These groups are involved with EITI processes in the respective countries as well as on EITI's international coordination level. EITI aims to improve governance in resource-rich countries through the verification and full publication of company payments and government revenues from the extractives sector (oil, mining and gas). To become an EITI Compliance country, the government must publish all company payments and government revenues from the extractives sector and pass an independent validation process. Thus far, only Azerbaijan, Ghana, Liberia, Mongolia and East Timor are compliant. To become an EITI Candidate, a country must meet four sign-up indicators, including the development of a plan documenting how the country intends to achieve EITI Compliance. At present there are 27 candidate countries, of which Niger is one.[51] In January 2010, the government of Niger wrote: 'Significant progress has been made in the process of having Niger's membership in the Extractive Industries Transparency Initiative (EITI) approved. The report reconciling mining and petroleum revenues for 2005 and 2006 has been completed, and revenues paid by the mining and oil companies and revenues declared by the government have been found to be generally consistent'.[52] The final report on the revenues over 2005 and 2006 can be found on the website of EITI.[53] In January 2010, ITIE Niger published its 2007–2008–2009 EITI Report.[54] It should be noted that EITI checks whether the payments by companies are in line with the revenues of the governments. EITI does not provide for an analysis on whether the revenues are in line with the regulations of governments on revenues.

Government regulations on revenues

Main taxes, duties, royalties and selling rights

This section describes the main revenues the government may receive from the uranium mining companies.

- **Mining royalty.** The base of the mining royalty (Redevance Minière) is the market value of the Free on Board delivered final product. When shipping uranium, mining companies are required to make an advance payment on the mining royalties at the rate of 5.5 percent. The rate that will eventually have to be paid depends on the operating income of the mining company.[55] The purchase price of uranium for AREVA, SOPAMIN, OURD and Enusa is the base for the calculation of mining royalties.

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np.com/common/liblocal/docs/press/AREVA_Niger_janvier09_VA.pdf>

51 EITI website, 'EITI Countries', <http://eiti.org/implementingcountries>

52 Government of Niger, 'Letter of Intent, Memorandum of Economic and Financial Policies, and Technical Memorandum of Understanding', 21 January 2010, <http://www.imf.org/external/np/loi/2010/ner/012110.pdf>

53 Republique du Niger, Cabinet du Premier Ministre, 'rapport de mission de verification de la collecte et de la reconciliation des revenus miniers et petroliers revenus 2005–2006 (rapport définitif)', Août 2009, <http://eiti.org/files/EITI Report 2005-2006 Niger.pdf>

54 ITIE Niger, "Rapport de mission de collecte et de reconciliation des revenus minier et petroliers, revenues des annees 2007, 2008 et 2009", December 2010, <http://www.itieniger.ne/content_rap22.php>

55 Government of Niger, Ministry of Mines and Energy, 'Mining code of the Republic of Niger, 2007 edition', page 83, <http://www.howwemadeitinafrica.com/wp-content/uploads/2010/05/Niger_-Mining-Code.pdf>
International Monetary Fund, 'IMF Country Report No. 09/70; Niger: Selected Issues and Statistical Appendix', February 2009, <http://www.imf.org/external/pubs/ft/scr/2009/cr0970.pdf>

Table 8: Mining royalty calculation Niger

Operating income as a percentage of export value	Mining royalty rate
Less than 20 percent	5.5%
Between 20 and 50 percent	9%
More than 50 percent	12%

- **Corporate income tax.** Corporate income tax (Impôt sur les bénéfices – ISB) is levied on the net income of incorporated and unincorporated enterprises engaging in commercial, industrial, agricultural or artisanal business in Niger. For mining companies the rate is 35 percent.[56] The rate is lowered to 30% from 2010 onwards.[57]
- **Dividends.** COMINAK and SOMAÏR pay dividends to shareholders in proportion to each shareholder's stake in the capital, with the amounts of the dividends based on the companies' profits.[58]
- **Tax on income from dividends.** Dividends, fees or other proceeds distributed to shareholders by operating companies which take the form of corporations are subject to tax on income from movable capital. Tax on interest and dividend income (Impôt sur le Revenu des Valeurs Mobilières – IRVM) is levied on the payment of distributions by limited companies to their shareholders and on income from interest. For dividends the rate is 10 percent.[59]
- **Uranium selling rights.** In 2007 and 2008, the government of Niger successfully negotiated the right to sell some of the uranium produced by the uranium companies on the world market.
- **Income taxes on wages.** The tax withheld monthly at source by employers on wages, salaries and pensions is called Impôt Unique sur les Traitements et Salaires (IUTS).[60]

Sample mining agreement

This study was not able to access mining agreements between host countries and mining companies. Such agreements between host states and the investor would identify the key elements relating to the investment (fiscal, economic, social, environmental, etc.) and have a law-making function. The agreements are usually not made public.

For Niger, however, a sample mining agreement (published in 2007 by the government of Niger) between the Republic of Niger and a mining company was found.[61] Niger declares in this sample agreement that the state assures the mining company that the general, legal, administrative, economic, financial and fiscal conditions provided for in the agreement will remain unchanged. During the term of the agreement, the rates specified, the regulations regarding the tax base and tax collection are to remain as they were at the date of signature, unless these rates are reduced in the meantime, in which case the mining company could benefit from these new rates at their request.

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[56] International Monetary Fund, 'IMF Country Report No. 09/70; Niger: Selected Issues and Statistical Appendix', February 2009, <http://www.imf.org/external/pubs/ft/scr/2009/cr0970.pdf>

[57] PricewaterhouseCoopers, "Paying Taxes 2011, The global picture", page 15, 2010, <http://www.pwc.com/gx/en/paying-taxes/pdf/paying-taxes-2011.pdf>

[58] AREVA, 'Niger and uranium', January 2009, <http://www.AREVA-np.com/common/liblocal/docs/press/AREVA_Niger_janvier09_VA.pdf>

[59] International Monetary Fund, 'IMF Country Report No. 09/70; Niger: Selected Issues and Statistical Appendix', February 2009, page 117, <http://www.imf.org/external/pubs/ft/scr/2009/cr0970.pdf>

[60] International Monetary Fund, 'IMF Country Report No. 09/70; Niger: Selected Issues and Statistical Appendix', February 2009, page 117, <http://www.imf.org/external/pubs/ft/scr/2009/cr0970.pdf>

[61] Government of Niger, Ministry of Mines and Energy, 'Mining code of the Republic of Niger, 2007 edition', pages 83 and 84, <http://www.howwemadeitinafrica.com/wp-content/uploads/2010/05/Niger_-Mining-Code.pdf>

Some tax and duty advantages for the companies could also be found in the sample agreement with regard to the capital investment needed to produce uranium from the mine. The advantages include:

- Possibility of benefiting from the system of accelerated depreciation
- Exemption from value added tax (VAT) for a period ending on the date of the first production
- Exemption from all import taxes and duties on materials and machinery intended to be exclusively used for the works until the date of the first production

With regard to the present investments in the Imouraren project and the heap leach project at SOMAÏR, AREVA states that the fiscal aspects of the mining conventions (investment contracts) signed are following the mining laws that were applicable at the time of signature.[62]

Agreement on Imouraren mine

In January 2009, an agreement was reached between the State of Niger and the AREVA group with regard to the development of the Imouraren uranium mine. The benefits for Niger are estimated to be as follows:

- SOPAMIN will receive selling rights for 33.35 percent of the uranium production resulting from the exploitation of the Imouraren deposits. Since production is estimated to reach 5,000 tons per year, this means that SOPAMIN may sell 1,667 tons of uranium per year. The revenues of the state of Niger will mainly depend on the difference between the prices it will get at the world market and the purchase price from Imouraren SA. Whenever this difference is EUR 20 per kilogram, revenues due to the selling rights would comprise more than EUR 33 million per year. Whenever this difference is EUR 40 per kilogram, revenues due to the selling rights would comprise about EUR 67 million per year.
- AREVA will provide for all the funding needed for the investment.
- The State of Niger will receive a 33.35 percent stake in the operating company and will receive 33.35 percent of dividends as a shareholder.
- During the 31-year period of operations, Niger is expected to receive tax revenues amounting to 641 billion CFA francs. This is equivalent to EUR 31.5 million per year. The calculated revenues mainly comprised mining royalties, corporate income tax, income taxes on wages, value added tax and customs duties.
- The creation of 1,350 direct jobs and 3,375 indirect employment positions for a payroll of about 20 billion CFA francs (EUR 30.5 million).[63]

Exports of uranium by Niger period 2005-2009

Table 9 shows the production, export and export value of the uranium mining operations in Niger over the period 2005-2009.

[62] Response to draft-factsheet by AREVA, e-mail by Didier Fohlen, Business Group Mines, Vice President, Environment & Social Responsibility, on 17 December 2010.

[63] Réseau des Organisations pour la Transparence et l'Analyse Budgetaire (ROTAB), 'Approbation de la convention minière entre le Niger et AREVA', <http://www.rotabniger.org/rotab2/index.php?option=com_content&task=view&id=26&Itemid=2> ROTAB, 'Signature de la convention minière pour le gisement d'Imouraren', <http://www.rotabniger.org/rotab2/index.php?option=com_content&task=view&id=27&Itemid=2>

Table 9: Exports of uranium by Niger over the period 2005-2009

Unit	2009[64]	2008[65]	2007[66]	2006[67]	2005[68]
Production of uranium (tons)	3,243	3,032	3,153	3,434	3,093
Exports of uranium (tons)					
Sold to AREVA, OURD and Enusa	??	2,298.5	3,315	3,160	3,400
Sold by SOPAMIN	??	830	100	-	-
Total exports	??	3,128.5	3,415	3,160	3,400
Export value (EUR millions)[69]					
Sold to AREVA, OURD and Enusa	??	192.7	202.2	121.4	119.2
Sold by SOPAMIN	??	109.4	15.9	0.0	0.0
Total exports	287.2	302.1	218.1	121.4	119.2

Payments by AREVA

This section describes the payments to the Niger government by AREVA (and to a lesser extent OURD and Enusa) from the mining operations of SOMAÏR and COMINAK.

Revenues Niger in the period 1970s–2006

ROTAB Publiez Ce Que Vous Payez Niger (ROTAB) is a group of various associations, NGOs and labour unions in Niger which have decided to pool their knowledge and experience and play an active role in the worldwide Publish What You Pay campaign.[70] ROTAB's National Coordinator is Idrissa Ali. In January 2009 he stated that according to sources close to SOMAÏR and COMINAK the Niger government has received only 300 billion CFA francs in taxes from the uranium companies since they began operations. The sources estimated that the sales of uranium had amounted to 2,300 billion CFA francs.[71] This would put the taxes received at 13 percent of the total value of exported uranium.

The final EITI report on 2005 and 2006 confirms the statement by ROTAB for 2005 and 2006. In 2005 the taxes received by the Niger government as a percentage of the total value of exported uranium were below 13 percent, comprising only 8.1 percent. In 2006 the percentage was 12.8 percent. Table 10 shows this.

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64 International Monetary Fund, 'Rapport du FMI sur les économies nationales n°10/146', June 2010, <http://www.imf.org/external/french/pubs/ft/scr/2010/cr10146f.pdf>
World Nuclear Association, 'Uranium in Niger', October 2010, <http://www.world-nuclear.org/info/inf110.html>

65 Banque Centrale des Etats de l'Afrique de l'Ouest (BCEAO), Direction Nationale de la BCEAO pour le Niger, 'Balance des paiements et position exterieure globale du Niger au titre de l'annee 2008', December 2009, <http://www.bceao.int/internet/bcweb.nsf/pdf/rbpniger2008.pdf/$FILE/rbpniger2008.pdf>
World Nuclear Association, table 'World Uranium Mining', production figures 2003–2009, May 2010, <http://www.world-nuclear.org/info/inf23.html>

66 Banque Centrale des Etats de l'Afrique de l'Ouest (BCEAO), Direction Nationale de la BCEAO pour le Niger, 'Balance des paiements et position exterieure globale du Niger au titre de l'annee 2008', December 2009, <http://www.bceao.int/internet/bcweb.nsf/pdf/rbpniger2008.pdf/$FILE/rbpniger2008.pdf>

67 International Monetary Fund, 'IMF Country Report No. 09/70; Niger: Selected Issues and Statistical Appendix', February 2009, page 92, <http://www.imf.org/external/pubs/ft/scr/2009/cr0970.pdf>

68 International Monetary Fund, 'IMF Country Report No. 09/70; Niger: Selected Issues and Statistical Appendix', February 2009, page 92, <http://www.imf.org/external/pubs/ft/scr/2009/cr0970.pdf>

69 Since 1 January 1999, the West African CFA franc (XOF) has been pegged to the euro at a rate of 655.957 CFA francs per EUR 1.

70 ROTAB website, <http://www.rotabniger.org/index_en.htm>

71 Khadija Sharife, blog 'Niger: Fissile Policies, Fissionable Politics', 16 January 2009, <http://www.afrika.no/Detailed/17819.html>

Table 10: Niger government revenues compared to the value of exported uranium, 2005 and 2006[72]

Unit (EUR millions)	2005	2006
Taxes received by Niger government from COMINAK and SOMAÏR	9.7	15.5
Value of exports according to the International Monetary Fund[73]	119.2	121.4
Government revenues as a percentage of value exported	8.1%	12.8%

Revenues received by Niger during the period 2005-2009

The booming prices of uranium on the world market during 2007 and 2008 were reflected to some extent in the negotiation of new agreements between the shareholders of the mining companies and the State of Niger:

- In August 2007, AREVA signed an agreement with the State of Niger to revise the earlier agreed purchase price for 2007.[74] Retrospectively, the purchase price for 2007 was increased from 27,300 CFA francs to 40,000 CFA francs per kilogram.[75] In January 2008, the shareholders and Niger signed an agreement concerning the purchasing terms and conditions for 2008 and 2009.[76] The purchase price for a kilogram of uranium was fixed at 55,000 CFA francs (EUR 83.8) in 2008, compared to 40,000 CFA francs (EUR 61.0) in 2007 and 25,200 CFA francs (EUR 38.4) in 2006.[77]
- In August 2007, Niger was also given the right to sell a portion of the production (300 tons) directly to the world market.[78] In January 2008, the shareholders and Niger signed an agreement that guaranteed SOPAMIN access to 900 metric tons of uranium per year to be produced by Nigerien mines in 2008 and 2009.[79] According to AREVA, from 2010 onwards SOPAMIN will likely sell all the uranium corresponding to its share in COMINAK (31%) and SOMAÏR (36.6%).[80]

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[72] Republique du Niger, Cabinet du Premier Ministre, 'rapport de mission de verification de la collecte et de la reconciliation des revenus miniers et petroliers revenus 2005–2006 (rapport définitif)', Août 2009, <http://eiti.org/files/EITI%20Report%202005-2006%20Niger.pdf>
The figures in this report are in CFA franc. Since 1 January 1999, the West African CFA franc (XOF) has been pegged to the euro at a rate of 655.957 CFA francs per EUR 1.

[73] International Monetary Fund, 'IMF Country Report No. 09/70; Niger: Selected Issues and Statistical Appendix', February 2009, page 92, <http://www.imf.org/external/pubs/ft/scr/2009/cr0970.pdf>. Since 1 January 1999, the West African CFA franc (XOF) has been pegged to the euro at a rate of 655.957 CFA francs per EUR 1.

[74] AREVA, 'Niger and uranium', January 2009, <http://www.AREVA-np.com/common/liblocal/docs/press/AREVA_Niger_janvier09_VA.pdf>

[75] World Nuclear Association, 'Uranium in Niger', October 2010, <http://www.world-nuclear.org/info/inf110.html>

[76] AREVA, 'Niger and uranium', January 2009, <http://www.AREVA-np.com/common/liblocal/docs/press/AREVA_Niger_janvier09_VA.pdf>

[77] Banque Centrale des Etats de l'Afrique de l'Ouest (BCEAO), Direction Nationale de la BCEAO pour le Niger, 'Balance des paiements et position exterieure globale du Niger au titre de l'annee 2008', December 2009, <http://www.bceao.int/internet/bcweb.nsf/pdf/rbpniger2008.pdf/$FILE/rbpniger2008.pdf>
Banque Centrale des Etats de l'Afrique de l'Ouest (BCEAO), Direction Nationale de la BCEAO pour le Niger, 'Balance des paiements et position exterieure globale du Niger au titre de l'annee 2007', December 2008, <http://www.bceao.int/internet/bcweb.nsf/pdf/rbpniger2007.pdf/$FILE/rbpniger2007.pdf>

[78] AREVA, 'Niger and uranium', January 2009, <http://www.AREVA-np.com/common/liblocal/docs/press/AREVA_Niger_janvier09_VA.pdf>

[79] Platts magazine Nuclear Fuels, 'AREVA-Niger agreement will pump more money into U mine development', 28 January 2008.
Reuters, article 'Niger state to increase direct sales of uranium', 15 January 2008, <http://www.reuters.com/article/idUSL1580648420080115?sp=true>

[80] Response to draft-factsheet by AREVA, e-mail by Didier Fohlen, Business Group Mines, Vice President, Environment & Social Responsibility, on 17 December 2010.

The EITI reports for the years 2005 to 2009 reveal the received revenues of the Niger government from COMINAK, SOMAÏR and SOPAMIN (the latter existing since 2007). Table 11 shows the total revenues for each of the taxes and other contributions. Over the period 2007-2009, the revenues of the Niger government were much higher than in previous years. Most strikingly are the increasing revenues out of profits by the companies (corporate income tax, dividends and of the tax on income from dividends).

Table 11: Revenues received by Niger from uranium mining companies, 2005-2009[81]

Revenues (EUR millions)	2009	2008	2007	2006	2005	2005-2009
1. Corporate income tax	43.2	31.8	8.3	2.1	0.0	85.4
2. Dividends	21.3	19.1	6.4	1.0	0.9	48.7
3. Tax on income from dividends	6.1	4.1	1.0	0.4	0.3	11.9
Revenues out of profits	**70.6**	**55.0**	**15.7**	**3.5**	**1.2**	**146.0**
Mining royalty	14.9	13.6	10.7	8.6	5.5	53.3
Employment taxes	3.4	2.9	2.5	2.1	1.9	12.8
Other	4.9	3.2	2.2	1.3	1.1	12.7
Total revenues Niger government	**93.8**	**74.7**	**31.1**	**15.5**	**9.7**	**224.8**

In Table 12 below the revenues out of profits by the companies (corporate income tax, dividends and tax on income from dividends) are analysed. Unfortunately, the profit & loss accounts of the companies (COMINAK, SOMAÏR and SOPAMIN) are not known. Therefore, there is no further analysis possible than to just show which company generated most revenues for Niger out of profits. Table 12 shows that the profits of SOMAÏR have been significantly higher in 2008 and 2009, compared to earlier years. The revenues of SOPAMIN, starting 2007, are due to the selling rights of uranium Niger has acquired.

Table 12: Revenues out of profits by COMINAK, SOMAÏR and SOPAMIN

Revenues (EUR millions)	2009	2008	2007	2006	2005
SOMAÏR	40.6	27.9	6.6	3.5	0.6
COMINAK	9.8	0.0	0.0	0.0	0.5
SOPAMIN	20.2	27.1	9.1	0.0	0.0
SOMAÏR, COMINAK and SOPAMIN	**70.6**	**55.0**	**15.7**	**3.5**	**1.2**

Analysis of corporate income tax paid by SOMAÏR in 2009

The revenues out of the profits from SOMAÏR in 2009 draw special attention. The breakdown of these benefits is as follows: corporate income tax EUR 27.9 million; dividends 9.2; tax on income from dividends 3.5.[82] As there is no profit and loss account available for SOMAÏR, it is difficult to analyse whether the revenues are in line with the regulations of the Niger government.
According to the International Monetary Fund, the total turnover of uranium sales in Niger (by COMINAK, SOMAÏR and SOPAMIN) has amounted to EUR 287.2 million in 2009.[83] According to

[81] ITIE Niger, 'Rapport de mission de collecte et de reconciliation des revenus minier et petroliers, revenues des annees 2007, 2008 et 2009', December 2010, <http://www.itieniger.ne/content_rap22.php>
Republique du Niger, Cabinet du Premier Ministre, 'rapport de mission de verification de la collecte et de la reconciliation des revenus miniers et petroliers revenus 2005–2006 (rapport définitif)', Août 2009, <http://eiti.org/files/EITI%20Report%202005-2006%20Niger.pdf>

[82] ITIE Niger, 'Rapport de mission de collecte et de reconciliation des revenus minier et petroliers, revenues des annees 2007, 2008 et 2009', December 2010**, <**http://www.itieniger.ne/content_rap22.php>

[83] International Monetary Fund, **'**Rapport du FMI sur les économies nationales n°10/146', June 2010, page 23,

AREVA, COMINAK yielded sales of EUR 100.6 million over 2009.[84] This would leave EUR 186.6 million as the turnover for SOMAÏR and SOPAMIN.

As the corporate income tax paid by SOMAÏR amounted to 27.9 million and assuming this amount reflects the tax paid over taxable profits in 2009 at the rate of 35%, the profits must have been at least EUR 80 million. It is hard to imagine that such a huge profit is made out of the turnover. During the course of this study, no reasonable explanation could be found for the huge amounts of corporate income tax paid by SOMAÏR. Likely, the figure includes advance payments for 2010.

Analysis purchase price AREVA period 2005 - 2008

Table 12 below shows the prices AREVA paid for the product share of the COMINAK and SOMAÏR operations over the period 2005 – 2008. The prices are compared with the prices paid by EU utilities over the same years. It is apparent from Table 13 that in 2007 and 2008 AREVA paid more to Niger than the average EU utility paid to purchase uranium from around the world through multi-annual contracts. In 2006, before the new negotiations, the prices were the same. It should be noted that the possible construction of the Imouraren mine by AREVA was also part of the negotiations between Niger and AREVA in August 2007 and January 2008. The increased prices, however, form a more beneficial base for receiving revenues from corporate income tax, dividends and mining royalties.

Table 13 also shows the prices SOPAMIN negotiated in 2007 and 2008 for some long-term and short-term deals. These long-term and spot prices reflect the prices paid each year to conclude a long-term contract or to buy uranium on the spot market.

Table 13: Prices of uranium negotiated by Niger over the period 2005-2009

(EUR per kilogram of uranium)	2009	2008	2007	2006	2005
Sold to AREVA, OURD and Enusa					
Price paid by AREVA, etc.	N/A	84	61	38	35
Multi-annual contracts EU utilities[85]	56	47	41	38	34
Sold by SOPAMIN (selling rights government)					
Selling price SOPAMIN	N/A	132	159	none	none
Long-term price[86]	123	146	172	103	64
Spot price[87]	86	109	188	102	60

<http://www.imf.org/external/french/pubs/ft/scr/2010/cr10146f.pdf>

84 AREVA group, 'SOMAÏR: a growing uranium producer' and 'COMINAK: operation of an unparalleled mine', <http://www.AREVA.com/EN/operations-658/worldwide-mining-operations-meeting-demand-for-uranium-through-global-operations.html>

85 European Commission, Euratom Supply Agency, Nuclear Observatory, 'ESA average uranium prices', <http://ec.europa.eu/euratom/observatory_price.html>

86 Cameco, 'Uranium prices', <http://www.cameco.com/marketing/uranium_prices_and_spot_price/spot_price_complete_history/>
The annual figures have been calculated by summing up the monthly prices and dividing them by 12.
The prices were in USD per pound of U_3O_8. This is converted to EUR per kilogram of uranium.
How many lb in 1 kilogram? The answer is 2.20462262185. <http://www.convertunits.com/from/lb/to/kg>
How many U in U_3O_8? The answer is 842 divided by 714 = 1.179272.
<http://uk.answers.yahoo.com/question/index?qid=20100627111356AA5QH3W>
Exchange rates European Central Bank, as used by the Euratom Supply Agency, <http://ec.europa.eu/euratom/observatory_price.html>

87 Cameco, 'Uranium prices', <http://www.cameco.com/marketing/uranium_prices_and_spot_price/spot_price_complete_history/>
The annual figures have been calculated by summing up the monthly prices and dividing them by 12.
The prices were in USD per pound of U_3O_8. This is converted to EUR per kilogram of uranium.
How many lb in 1 kilogram? The answer is 2.20462262185. <http://www.convertunits.com/from/lb/to/kg>
How many U in U_3O_8? The answer is 842 divided by 714 = 1.179272.

Social Development Support by AREVA

Social development in Niger is primarily undertaken under the donations ("mécénats") program. It is directed towards the poorest and most needy group or a group not receiving funding from another group at present. Another way for supporting local communities is AREVA's social development programmes around Arlit and Akokan related to local economic development. These projects are intended to be operated as business opportunities, with AREVA acting as a partner with local community members to support a business opportunity. Approximately EUR 16 million have been invested in direct social development projects over the period 2003 -2010.[88]

<http://uk.answers.yahoo.com/question/index?qid=20100627111356AA5QH3W>
Exchange rates European Central Bank, as used by the Euratom Supply Agency,
<http://ec.europa.eu/euratom/observatory_price.html>

[88] Response to draft-factsheet by AREVA, e-mail by Didier Fohlen, Business Group Mines, Vice President, Environment & Social Responsibility, on 29 December 2010.

ANNEX B: Factsheet Rio Tinto in Namibia

Namibia and uranium mining

Namibia

The Republic of Namibia is located in Southern Africa, bordering the South Atlantic Ocean between Angola and South Africa. It has a population of 2.1 million people and geographically has many desert regions. It became independent (from South African mandate) in 1990. Mining (most prominently diamonds and uranium) provides more than 50 percent of foreign exchange earnings. However, the mining sector only employs about 3 percent of the population, with 35–40 percent of the population depending on subsistence agriculture for its livelihood.[89]

In 2009, Namibia was the world's fourth-ranking producer of uranium. The country provided over 9 percent of the world's uranium mining output. Over the years, the annual mine production of Namibia has increased, from 2,000 tons of uranium in 2003 to 4,600 tons in 2009.[90]

Namibia does not participate in the Extractive Industries Transparency Initiative (EITI), which is a coalition of governments, companies, civil society groups, investors and international organisations that aims to improve governance in resource-rich countries through the verification and full publication of company payments and government revenues from the extractives sector (oil, mining and gas). Rio Tinto supports the EITI.[91]

The mining companies

Two joint ventures presently account for all uranium mining in Namibia: Rössing Uranium Limited (with Rio Tinto as the majority shareholder) and Langer Heinrich Uranium Limited (100 percent owned by Paladin Energy). The latter venture is discussed in Annex C.

Rössing Uranium Limited was formed in 1970 and started mining in 1976. By the end of 2009 it had supplied 94,963 tons of uranium.[92] Its primary product is uranium oxide, extracted from tough granite known as Alaskite. Rössing has the following shareholders:

- Rio Tinto Group: 68.6%
- Industrial Development Corp. of South Africa Ltd: 10%
- Government of Iran: 15%
- Government of Namibia: 3.5%
- Individual shareholders: 3%

The Namibian government, with a 3.5 percent shareholding, has the majority (51 percent) voting rights on issues of national interest.

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89 CIA World Fact Book, 'Namibia', <https://www.cia.gov/library/publications/the-world-factbook/geos/wa.html>

90 World Nuclear Association, table 'World Uranium Mining', production figures 2003–2009, May 2010, <http://www.world-nuclear.org/info/inf23.html>

91 Extractive Industries Transparency Initiative (EITI), 'Supporting Companies', <http://eiti.org/supporters/companies>

92 World Nuclear Association, 'Uranium in Namibia', 31 October 2010, <http://www.world-nuclear.org/info/inf111.html>

Explanation of Iranian government stake

The 100 percent government owned Iranian Foreign Investment Company (IFIC) acquired its 15 percent stake during the establishment of the company in 1975. The IFIC continues to own 15 percent. This shareholding needs further explanation as, on 9 June 2010, the United Nations affirmed sanctions against the government of Iran as a result of the government's failure or refusal to suspend all its uranium enrichment-related and processing activities. The sanctions, through UN Security Council Resolution 1929, state that Iran shall not acquire an interest in any commercial activity in another country that involves uranium mining, production or use of nuclear materials and technology. The Resolution is directed to Member States who need to ensure compliance with the various clauses.

Rio Tinto continues to consult extensively with the US State Department, as well as with the Namibian, Australian and UK governments. Rio Tinto has been advised that the UN sanctions do not prohibit the government of Iran from retaining an existing interest in commercial uranium, provided it does not make any further investment, gain access to any nuclear technology through its investment or have any uranium product offtake rights.

Rio Tinto intends to take all of the necessary steps to remain in compliance with relevant economic sanctions and will continue to work cooperatively with the relevant governments to that end. IFIC's minority interest in Rössing is long-standing – since 1975 – pre-dating the establishment of the Islamic Republic and the UN Resolutions targeting Iran's nuclear and ballistic missile programmes. IFIC does not, through this investment, gain access to any nuclear technology, nor does it have any rights to Rössing's production of uranium. IFIC has not received dividends from Rössing for the past three years as these have been frozen due to other UN sanctions that have made it impossible for Iran to receive such payments.

IFIC has not made any further investment in Rössing Uranium Limited since the UN resolution was passed, it does not have access to any nuclear technology through its investment, and it does not have any uranium product offtake rights.[93]

Investment plans and employment

In 2009 Rössing produced 3,519 tons of uranium, making it the third-largest uranium mine in the world.[94] Rössing expects to extend its mining activities into 2023, and has announced an expansion of production to an intended annual capacity of 4,500 tons U_3O_8 (3,800 tons of uranium) by 2012.[95]

In addition to the expansion plans of Rössing Uranium (expected production of 3,800 tons in 2012) and Langer Heinrich (expected production of 2,000 tons in 2012), two new mines are expected to produce uranium by 2012. AREVA's Trekkopje is expected to produce 3,500 tons of uranium in 2012, and the Valencia uranium project is expected to produce 1,350 tons of uranium by 2012.[96] Three new

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93 Rössing Uranium Limited, 'Iran foreign investment company's shareholding in Rössing Uranium Limited', 4 November 2010, <http://www.rossing.com/files/rossing_shareholder_info.pdf>
Response to draft factsheet by Rio Tinto, email by Andy Lloyd, chief development officer, Uranium, on 13 December 2010.

94 World Nuclear Association, 'Uranium in Namibia', updated December 2010, <http://www.world-nuclear.org/info/inf111.html>

95 Rössing Uranium Limited, '2009 Report to Stakeholders', 28 February 2010, <http://www.rossing.com/files/rossing_stakeholder_report2009.pdf>

96 World Nuclear Association, 'Uranium in Namibia', updated December 2010, <http://www.world-nuclear.org/info/inf111.html>

mines and expansion plans together mean an expected uranium production in Namibia of 10,650 tons in 2012.

Rössing is the second-largest employer in the mining sector, accounting for about 17 percent of Namibia's total permanent workforce. At the end of 2009, Rössing had 1,415 permanent employees, 97.9 percent of whom were Namibians.[97] Only 30 of the permanent employees were not Namibian, of which 16 were permanent residents. In pursuit of their stated expansionary plans, Rössing set a target of 1,500 permanent employees by year end, from 1,307 as of December 2008. However, various factors, including the availability of skills and a number of resignations, resulted in the target not being met.

The levels of employment for 2009 signify a marked improvement from the level in 2000, where permanent employment numbers were nearly half of the present level. Supplementing the permanent employee numbers were 1,965 contractors, bringing the total number of workers on site during 2009 to 3,377.[98] In 2009, all employees received a 10 percent increase in their basic salaries. Namibia's inflation in 2008 was 6.9 percent.[99]

A further breakdown of the employment figures indicates that the employment of women remains a challenge. By the end of 2009, women represented only about 11 percent of the total permanent workforce, down from nearly 14 percent in 2008. However, an analysis of the socio-economic classifications indicates that 90 percent of those employed are from previously disadvantaged backgrounds.[100]

Government regulations on revenues

Namibia's mining industry is regulated by the *Minerals Prospecting and Mining Act* of 1992.[101] The Act provides a general framework and does not go into specifics about taxes, duties, royalties, investment advantages, etc.

Royalties

In November 2006, the government of Namibia decreed that a percentage of the market value of minerals should be levied as a royalty. For nuclear fuel minerals the royalty would be 2 percent.[102] In March 2007, the royalty payable on uranium production in Namibia was raised from 2 percent to 3 percent.[103] There was a dispute at the time, whereby Rössing did not pay royalties over 2007 and 2008. In April 2009, the government decided to increase the royalties to be paid by Rössing Uranium to 6 percent of the market value.

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97 Rössing Uranium Limited, '2009 Report to Stakeholders', 28 February 2010, <http://www.rossing.com/files/rossing_stakeholder_report2009.pdf>

98 Rössing Uranium Limited, '2009 Report to Stakeholders', 28 February 2010, <http://www.rossing.com/files/rossing_stakeholder_report2009.pdf>

99 Response to draft factsheet by Rio Tinto, email from Andy Lloyd, chief development officer, Uranium, on 13 December 2010.

100 Rössing Uranium Limited, '2009 Report to Stakeholders', 28 February 2010, <http://www.rossing.com/files/rossing_stakeholder_report2009.pdf>

101 Government Gazette of the Republic of Namibia, 'No. 33 of 1992: Minerals (Prospecting and Mining) Act, 1992', <http://www.mme.gov.na/pdf/minerals_act_1992.pdf>

102 Government Gazette of the Republic of Namibia, No. 3733, 1 November 2006, <http://www.saflii.org/na/other/NAGovGaz/2006/159.pdf>

103 Mining Journal, 'Namibia uranium royalty rate now 3%', March 2007, <http://www.mining-journal.com/exploration--and--development/namibia-uranium-royalty-rate-now-3>

The royalties to be paid by Paladin remained at 3 percent.[104] The 6 percent rate for Rössing is the result of the settlement of the dispute between it and the government of Namibia. The company is now catching up with payments.

Corporate tax

The corporate tax paid by the uranium companies amounts to 37.5 percent of profits.[105]

Accelerated depreciation

Namibia offers mining companies a three-year accelerated write-off of development costs, with unlimited carry-forward.[106] This leads to a reduction in corporate income tax, against corporate income tax which is deferred for future payment.

Payments by Rio Tinto

Namibian government revenues for the period 2005–2009

Rio Tinto has never signed a mining agreement with Namibia. The company simply has to abide by the Namibian laws.[107] A mining agreement between the host state and the investor identifies the key elements relating to the investment (fiscal, economic, social, environmental, etc.) and has a law-making function.

Table 14 below, extracted from the 2009 annual report by Rössing Uranium, shows the company figures for the last 5 years and the revenues received by the Namibian government.

Table 14 shows that 2007 and 2008 were the most successful years for the company. Both the net profit (after paying tax) and the Namibian government revenues for 2007 and 2008 are higher than in 2005, 2006 and 2009. The good results in 2007 and 2008 were mainly due to the high prices paid for uranium on the world market during these years.

The mining royalty paid by Rössing Uranium for 2009 only represents amounts paid over that year. Rio Tinto did not paid any royalties in 2007 and 2008. The royalty was introduced in late 2006; however, a dispute at the time led to Rössing not paying the royalty. The company began discussions with the Mines and Energy Minister in 2007 to amend the royalties act in order for uranium to be legally included in Namibian law. Eventually, in 2009, Rössing and the government of Namibia reached a settlement and the company is now catching up with payments. Rössing is paying a rate of 6 percent, which is specific to the company. At some point in the future, Rössing expects to revert back to the 3 percent rate which applies to other uranium mining companies. This date is not yet known.[108]

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[104] The Chamber of Mines of Namibia, 'Annual Review 2007–2008', <http://www.chamberofmines.org.na/uploads/media/Chamber_of_Mines_Annual_Review_2008.pdf>

[105] PricewaterhouseCoopers, 'Turning up the heat, Namibia Tax Information 2010/2011', <http://www.pwc.com/en_na/na/assets/pdf/pwc-tax-card-budget2010.pdf>

[106] Foreign Investment Advisory Service, a joint service of the International Finance Corporation and The World Bank, 'Namibia Investment Legislation, Incentives, and Institutions: Recommendations for Reform', 14 December 2006, <http://www.ifc.org/ifcext/fias.nsf/AttachmentsByTitle/Zambiataxconference_BackgroundpapersNamibia/$FILE/Namibia-ILII-061214.pdf>

[107] Interview with Andy Lloyd, chief development officer, Uranium, Rio Tinto, on 23 September 2010.

[108] Response to draft factsheet by Rio Tinto, email from Andy Lloyd, chief development officer, Uranium, on 13 December 2010.

Table 14: Rössing Uranium figures, including and payments to the Namibian government (EUR millions, unless otherwise stated)[109]

	2009	2008	2007	2006	2005	2005 - 2009
Exchange rate NAD/EUR[110]	11.674	12.059	9.660	8.531	7.918	
Export value per kilogram sold						
Exports	276.9	372.5	351.6	182.2	117.0	
Uranium produced (1,000 tons)	3.5	3.5	2.6	3.1	3.1	
Uranium sold (1,000 tons)	3.0	3.0	3.3	3.2	3.0	
Export value per kilogram sold (EUR)	93.7	124.5	105.0	57.5	39.4	
Net profit as a percentage of turnover						
Exports	276.9	372.5	351.6	182.2	117.0	
Net profit (after corporate income tax calculations)	24.3	101.5	100.9	35.6	4.3	
Net profit as a percentage of exports	9%	27%	29%	20%	4%	
Revenues Namibian government						
Mining royalty	14.8	0.0	0.0	0.0	0.0	14.8
Corporate income tax to be paid over current year	12.5	47.6	52.0	18.5	0.0	130.6
Employment taxes (pay-as-you-earn taxes)	10.4	6.1	5.9	5.4	5.0	32.8
Dividend	0.5	1.0	0.5	0.0	0.0	2.0
Rates and licences	0.2	0.1	0.1	0.2	0.2	0.8
Total revenues Namibian government	**38.4**	**54.8**	**58.5**	**24.1**	**5.2**	**181.0**
Revenues host state as a % of exports	14%	15%	17%	13%	4%	

Deferred tax

It should be noted that the corporate income tax, as mentioned in Table 14 above, only reflects the corporate income tax to be paid for the current year. In addition to the current taxes, Rössing also reported deferred tax as a revenue for the host state in its annual report. For this study, the deferred tax is not included as a revenue for the Namibian government, since the deferred tax has not yet been paid to the government (but is still owed to the government) and that over the last five years no deferred taxes owed to the government have been paid. It is not clear whether they will ever be paid.

Accelerated depreciation is the main source of Rössing's deferred tax.[111] Deferred tax arises in situations where there is a difference between the way a company values assets for accounting purposes and the way a company is allowed to value assets for tax purposes. Usually, deferred taxes relate to investments in plants and equipment. The company may fiscally be allowed accelerated depreciation of these assets as a stimulus for investment. Accelerated depreciation reduces taxable income in the short term but creates a tax liability to be paid in the future.

Deferred tax results from timing differences between tax treatments and accounting treatments of an asset. The differences are only temporary, as the value of the asset does not change, so eventually the same value is depreciated. However, new investments could again bring about accelerated

[109] Rössing Uranium Limited, '2009 Report to Stakeholders', 28 February 2010, page 48, <http://www.rossing.com/files/rossing_stakeholder_report2009.pdf>
The net profit is the sum of earnings retained and wealth distributed to providers of equity capital.

[110] European Central Bank, 'ECB reference exchange rate, South African Rand/Euro', <http://sdw.ecb.europa.eu/quickview.do?SERIES_KEY=120.EXR.D.ZAR.EUR.SP00.A> The exchange rate was calculated on the basis of the average of the stated exchange rates during 255–257 days of the year.

[111] Response to draft factsheet by Rio Tinto, email from Andy Lloyd, chief development officer, Uranium, on 13 December 2010.

depreciation, and the government will still not receive taxes. This seems to be the case for the period 2005–2009 at Rössing.

Table 15: Corporate income taxes paid and/or owed by Rössing Uranium (EUR millions), period 2005–2009

	2009	2008	2007	2006	2005	2005–2009
Corporate income tax to be paid over current year	12.5	47.6	52.0	18.5	0.0	130.6 (80%)
Deferred tax (owed to the government)	1.2	15.7	10.0	3.1	3.2	33.2 (20%)
Corporate income tax (37.5% of gross profit)	13.7	63.2	62.0	21.6	3.2	163.7 (100%)

Rio Tinto and country-by-country reporting

Rio Tinto discloses its tax payments per country. For Namibia, the company states that the taxes borne were USD 21 million in 2009 and the taxes collected USD 13 million.[112] Taxes borne reflect the sum of all the different taxes payable after accounting for deductions and exemptions. The taxes collected mainly comprise employment taxes collected by the company and remitted to the tax authorities.

Rio Tinto has a 68.6 percent stake in Rössing Uranium. With the average currency exchange rate for converting USD into EUR at 0.719 (USD 1 = EUR 0.719),[113] for the period, the taxes borne by Rössing Uranium amount to EUR 22 million and the taxes collected EUR 13.6 million.

According to Table 15 which shows the payments to the Namibian government as stated in the Rössing annual reports, the royalties and corporate income taxes to be paid amounted to EUR 27.3 million in 2009. This is EUR 5 million more than the figure given for taxes borne in Rio Tinto's country-by-country report.

The table also shows that employment taxes amounted to EUR 10.4 million. This is EUR 3 million more than the figure given for taxes collected in Rio Tinto's country-by-country report.

Rio Tinto explained the difference between the figures in the Rössing annual report and Rio Tinto's country-by-country report on its website. The country-by-country reporting reflects actual tax payments made, whereas the Rössing annual report shows tax expenses incurred.[114]

[112] Rio Tinto, 'Socio-economic development', <http://www.riotinto.com/ourapproach/17213_socioeconomic_development_17363.asp>
[113] IRS, 'Yearly Average Currency Exchange Rates', <http://www.irs.gov/businesses/small/international/article/0,,id=206089,00.html>
[114] Response to draft factsheet by Rio Tinto, email from Andy Lloyd, chief development officer, Uranium, on 16 December 2010.

ANNEX C: Factsheet Paladin in Namibia

Namibia and uranium mining

Namibia

The Republic of Namibia is located in Southern Africa, bordering the South Atlantic Ocean between Angola and South Africa. It has a population of 2.1 million people and geographically has many desert regions. It became independent (from South African mandate) in 1990. Mining (most prominently diamonds and uranium) provides more than 50 percent of foreign exchange earnings. However, the mining sector only employs about 3 percent of the population, with 35–40 percent of the population depending on subsistence agriculture for its livelihood.[115]

Namibia is the world's fourth-ranking producer of uranium. In 2009, the country provided over 9 percent of the world's uranium mining output. Over the years, the annual mine production of Namibia has increased, from 2,000 tons of uranium in 2003 to 4,600 tons in 2009.[116]

Namibia does not participate in the Extractive Industries Transparency Initiative (EITI), which is a coalition of governments, companies, civil society groups, investors and international organisations that aims to improve governance in resource-rich countries through the verification and full publication of company payments and government revenues from the extractives sector (oil, mining and gas). Paladin does not support the EITI.[117]

The mining companies

Two joint ventures presently account for all uranium mining in Namibia: Rössing Uranium Limited (with Rio Tinto as the majority shareholder; discussed in Annex B above) and Langer Heinrich Uranium Limited, which is 100 percent owned by Paladin Energy Ltd. The first shipments of uranium from the Langer Heinrich mine occurred in March 2007. As of September 2010, the project was estimated to have a minimum lifespan of 17 years, based on an annual production of 1,423 tons of uranium.[118]

Investment plans and employment

Paladin's Langer Heinrich mine production amounted to 1,108 tons of uranium in 2009.[119] At Langer Heinrich, expansion to a capacity of 1,423 tons of uranium per year was achieved in December 2009.

[115] CIA World Fact Book, 'Namibia', <https://www.cia.gov/library/publications/the-world-factbook/geos/wa.html>
[116] World Nuclear Association, table 'World Uranium Mining', production figures 2003–2009, May 2010, <http://www.world-nuclear.org/info/inf23.html>
[117] Extractive Industries Transparency Initiative (EITI), 'Supporting Companies', <http://eiti.org/supporters/companies>
[118] Paladin Energy Ltd, Factsheet 'Langer Heinrich mine, Namibia, Southern Africa', September 2010, <http://www.paladinenergy.com.au/getfile.aspx?Type=document&ID=3716&ObjectType=3&ObjectID=1329>
[119] World Nuclear Association, 'Uranium in Namibia', 31 October 2010, <http://www.world-nuclear.org/info/inf111.html>

Further expansion is scheduled for completion by the end of 2010,[120] and may increase production from the Langer Heinrich mine to 2,000 tons of uranium per year from mid-2011.[121]

In addition to the expansion plans of Rössing Uranium (expected production 3,800 tons in 2012) and Langer Heinrich (expected production 2,000 tons in 2012), two new mines are expected to produce uranium by 2012. AREVA's Trekkopje is expected to produce 3,500 tons of uranium in 2012, and the Valencia uranium project is expected to produce 1,350 tons of uranium by 2012.[122] These new mines and expansion plans together mean an expected uranium production within Namibia of 10,650 tons in 2012.

The number of employees amounted to 272 (including 48 women) at 30 June 2010. Only 16 employees are non-Namibian.[123] The number of contractors working for the project amounted to 637 at the end of 2009.[124]

Government regulations on revenues

Namibia's mining industry is regulated by the *Minerals Prospecting and Mining Act* of 1992.[125] The Act provides a general framework and does not go into specifics about taxes, duties, royalties, investment advantages, etc.

Royalties

In October 2006, the government of Namibia decreed that a percentage of the market value of minerals should be levied as a royalty. For nuclear fuel minerals the royalty would be 2 percent.[126] In March 2007, the royalty payable on uranium production in Namibia was raised from 2 percent to 3 percent.[127] In April 2009, the government decided to increase the royalties to be paid by Rössing Uranium to 6 percent of the market value of the minerals. The royalties to be paid by Paladin remained at 3 percent.[128]

Corporate tax

The corporate tax paid by the uranium companies amounts to 37.5 percent of profits.[129]

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[120] Paladin Energy Ltd, Factsheet 'Langer Heinrich mine, Namibia, Southern Africa', September 2010, <http://www.paladinenergy.com.au/getfile.aspx?Type=document&ID=3716&ObjectType=3&ObjectID=1329>
The reported figures (lb, U_3O_8) have been converted into kilograms and uranium.
How many lb in 1 kg? The answer is 2.20462262185. <http://www.convertunits.com/from/lb/to/kg>
How many U in U_3O_8? The answer is 842 divided by 714 = 1.179272.

[121] World Nuclear Association, 'Uranium in Namibia', 31 October 2010, <http://www.world-nuclear.org/info/inf111.html>

[122] World Nuclear Association, 'Uranium in Namibia', updated December 2010, <http://www.world-nuclear.org/info/inf111.html>

[123] Paladin Energy Ltd, 'Annual report 2010', page 54, <http://media.corporate-ir.net/media_files/irol/17/176316/2010_AR.pdf>

[124] The Chamber of Mines Namibia, 'Annual review 2008–2009', <http://www.chamberofmines.org.na/uploads/media/Chamber_of_Mines_Annual_Review_2009.pdf>

[125] Government Gazette of the Republic of Namibia, 'No. 33 of 1992: Minerals (Prospecting and Mining) Act, 1992', <http://www.mme.gov.na/pdf/minerals_act_1992.pdf>

[126] Government Gazette of the Republic of Namibia, No. 3733, 1 November 2006, <http://www.saflii.org/na/other/NAGovGaz/2006/159.pdf>

[127] Mining Journal, 'Namibia uranium royalty rate now 3%', March 2007, <http://www.mining-journal.com/exploration--and--development/namibia-uranium-royalty-rate-now-3>

[128] The Chamber of Mines of Namibia, 'Annual Review 2007–2008', <http://www.chamberofmines.org.na/uploads/media/Chamber_of_Mines_Annual_Review_2008.pdf>

[129] PricewaterhouseCoopers, 'Turning up the heat, Namibia Tax Information 2010/2011',

Accelerated depreciation

Namibia offers mining companies a three-year accelerated write-off of development costs, with unlimited carry-forward.[130] This leads to a reduction in the corporate income tax that must be paid immediately and a deferred liability for taxes that may need to be paid in the future.

Payments by Paladin

It is not clear whether Paladin has signed a mining agreement with the government of Namibia, in which specific details may have been defined. For this report, it is assumed that Paladin simply abides by the regulations on revenues as stipulated by the State of Namibia.

Mining royalty Langer Heinrich

Paladin does not report specifically about royalty payments to the Namibian government, and the Namibian government does not report its revenues. However, the Chamber of Mines Namibia provides some information about the Langer Heinrich company in its annual review 2008/2009. According to this report, over the calendar year 2009 Paladin paid around EUR 2.9 million in mining royalties. This figure corresponds with estimates of the mining royalties based on sales to external customers in the Paladin annual report 2009/2010, as Table 16 below shows. However, Paladin's annual report states that in total (Namibian and Malawian operations) it paid EUR 2.9 million in mining royalties during the year.[131]

Table 16: Royalty revenues for Namibia from the Langer Heinrich project

	Estimate for year ending 30 June 2010[132]	2009, according to Chamber of Mines Namibia[133]	Estimate for year ending 30 June 2009[134]
Volume sold (1,000 tons of uranium)	1.05		0.78
Average sales price (EUR per kilogram)	91.5		104.7
Sales (EUR millions)	95.9		81.4
Royalty rate	3%		3%
Royalty revenues (EUR millions)	2.9	2.9135	2.4

<http://www.pwc.com/en_na/na/assets/pdf/pwc-tax-card-budget2010.pdf>

130 Foreign Investment Advisory Service, a joint service of the International Finance Corporation and The World Bank, 'Namibia Investment Legislation, Incentives, and Institutions: Recommendations for Reform', 14 December 2006, <http://www.ifc.org/ifcext/fias.nsf/AttachmentsByTitle/Zambiataxconference_BackgroundpapersNamibia/$FILE/Namibia-ILII-061214.pdf>

131 USD 4.0 million. Paladin Energy Ltd, 'Annual report 2010', page 92, <http://media.corporate-ir.net/media_files/irol/17/176316/2010_AR.pdf>

132 Paladin Energy Ltd, 'Annual report 2010', page 37 and 122, <http://media.corporate-ir.net/media_files/irol/17/176316/2010_AR.pdf>
For the periods July 2008–June 2009 (1.3736) and July 2009–June 2010 (1.3916), the exchange rate USD/EUR was calculated from the European Central Bank: <http://www.ecb.europa.eu/stats/exchange/eurofxref/html/usd.xml>
The sales to external customers amounted to USD 133.5 million.
The volume sold amounted to 2,726,000 lb U_3O_8 (equivalent to 1,049 tons of uranium)

133 The Chamber of Mines Namibia, 'Annual review 2008–2009', <http://www.chamberofmines.org.na/uploads/media/Chamber_of_Mines_Annual_Review_2009.pdf>

134 Paladin Energy Ltd, 'Annual report 2010', page 37, <http://media.corporate-ir.net/media_files/irol/17/176316/2010_AR.pdf>
For the periods July 2008–June 2009 (1.3736) and July 2009–June 2010 (1.3916), the exchange rate USD/EUR was calculated from the European Central Bank: <http://www.ecb.europa.eu/stats/exchange/eurofxref/html/usd.xml>.
The sales to external customers amounted to USD 111.8 million.
The volume sold amounted to 2,021,000 lb U_3O_8 (equivalent to 777 tons of uranium)

135 European Central Bank, 'ECB reference exchange rate, South African Rand/Euro',

Corporate income tax Langer Heinrich

According to the annual review 2008/2009 by the Chamber of Mines Namibia, Paladin paid no corporate income tax for its Langer Heinrich operations during the calendar year 2009.[136] Paladin does not report government revenues on a country-by-country basis. However, Paladin's annual report for the year ending 30 June 2010 provides some insight into income taxes. Paladin's annual report lists the profits/losses and corporate income taxes for the company operations in Australia (headquarters, exploration activities), Namibia (Langer Heinrich) and Malawi (Kayelekera). Table 17 below shows that the Namibian operations were profitable in 2010.

Table 17: Paladin Energy, figures for year ending 2010 per country (USD millions)[137]

	Australia	Namibia	Malawi	Consolidated
Profit before income tax and finance costs	-50.8	38.6	7.9	-4.3
Finance costs	17.0	4.4	0.0	21.4
Income tax expense	2.0	23.5	2.6	28.1
Net profit after tax	-69.8	10.7	5.3	-53.8

The income tax expenses as shown in Paladin's annual report for the year ending 30 June 2010 do not tell us whether tax was actually paid to the Namibian government, or whether Paladin increased its deferred tax liability. According to the annual report, the consolidated net deferred tax liabilities indeed increased from USD 136.5 million for the year ending 30 June 2009 to USD 164.1 million for the year ending 30 June 2010. This suggests that Paladin has made use of accelerated depreciation to not pay taxes over the current year, as is permitted by the Namibian government. According to the annual report, the accelerated depreciation for tax purposes also increased from USD 115.3 million for the year ending 30 June 2009 to USD 140.7 million for the year ending 30 June 2010. The annual report also states that Langer Heinrich and Kayelekera may eventually have to pay income taxes.

Paladin may have to pay corporate income taxes in the future, whenever it makes profits that can't be compensated by negative profit taxes due to losses in previous years. The corporate income tax to be paid may increase due to a reversal of existing temporary differences. In its first years of operation, the company may have accelerated depreciation of its plants and equipment. After a few years, however, there may be a reversal. This is the case when nothing remains to depreciate for tax purposes, while depreciation for accounting purposes continues. At this stage, taxes have to be paid. However, new investments could again bring about accelerated depreciation, with the government still receiving no taxes.

<http://sdw.ecb.europa.eu/quickview.do?SERIES_KEY=120.EXR.D.ZAR.EUR.SP00.A> The exchange rate was calculated on the basis of the average of the stated exchange rates during 255–257 days of the year. The Namibian dollar is pegged to the South African Rand. For 2009 the exchange rate was EUR 1 = NAD 11.674. The mining royalty revenues amounted to NAD 33.9 million.

[136] The Chamber of Mines Namibia, 'Annual review 2008–2009', <http://www.chamberofmines.org.na/uploads/media/Chamber_of_Mines_Annual_Review_2009.pdf>

[137] Paladin Energy Ltd, 'annual report 2010', page 122, <http://media.corporate-ir.net/media_files/irol/17/176316/2010_AR.pdf>

ANNEX D: Factsheet Paladin in Malawi

Malawi and uranium mining

Malawi

The Republic of Malawi is a landlocked country in southeast Africa. It is bordered by Zambia, Tanzania and Mozambique. Malawi became independent from the British in 1964. The country ranks among the world's most densely populated and least developed countries. Presently it has a population of 15.5 million people. The economy is predominately agricultural, with about 80 percent of the population living in rural areas. Tobacco accounts for more than half of exports.[138]

Uranium mining production started in Malawi in mid-2009. Malawi does not participate in the Extractive Industries Transparency Initiative (EITI), which is a coalition of governments, companies, civil society groups, investors and international organisations that aims to improve governance in resource-rich countries through the verification and full publication of company payments and government revenues from the extractives sector (oil, mining and gas).

Paladin does not support the EITI.[139]

The uranium mining company in Malawi

The uranium project at Kayelekera in the north of the country is the first large-scale mining project in Malawi. The Kayelekera uranium mine is 100 percent owned by the company Paladin (Africa) Limited, which has the following shareholders:

- The Australian mining company Paladin Energy Ltd.: 85%
- The Republic of Malawi: 15%. In July 2009, Paladin granted this share to Malawi under the terms of the Development Agreement signed between the company and the government in February 2007.[140]

The construction of the Kayelekera mine started in June 2007 at a budgeted cost of USD 200 million.[141] In its annual report for the year ending 30 June 2009, Paladin wrote that the project remained within 5 percent of its capital works budget, at an estimated cost of USD 215 million.[142] The project has experienced some setbacks. In its annual report 2009, Paladin stated that commercial-scale production would be achieved during the September 2009 quarter.[143] However, in its annual report 2010, it stated that commercial production was achieved in July 2010.[144] On 25 October 2010, Paladin announced that the completion test to be undertaken by independent technical consultants would commence 1 November 2010. This test requires the project to operate at a minimum of 90 percent of intended production for a continuous period of 90 days. Once it passes the completion test the interest margin on the commercial bank facility portion of the outstanding Kayelekera mine project

[138] CIA World Fact Book, 'Malawi', <https://www.cia.gov/library/publications/the-world-factbook/geos/mi.html>
[139] Extractive Industries Transparency Initiative (EITI), 'Supporting Companies', <http://eiti.org/supporters/companies>
[140] Paladin Energy Ltd, 'Paladin (Africa) Ltd', <http://www.paladinenergy.com.au/default.aspx?MenuID=52>
[141] Paladin Energy Ltd, Factsheet 'Kayelekera mine, Malawi, Southern Africa, in production ramp-up', September 2010, <http://media.corporate-ir.net/media_files/irol/17/176316/Kayelekera.pdf>
[142] Paladin Energy Ltd, 'Annual report 2009', page 12, <http://media.corporate-ir.net/media_files/irol/17/176316/arpdn.pdf>
[143] Paladin Energy Ltd, 'Annual report 2009', page 12, <http://media.corporate-ir.net/media_files/irol/17/176316/arpdn.pdf>
[144] Paladin Energy Ltd, 'Annual report 2010', page 11, <http://media.corporate-ir.net/media_files/irol/17/176316/2010_AR.pdf>

finance debt will be reduced by 0.50 percent per annum and the loan will become non-recourse to Paladin Energy Ltd.[145]

Investment plans and employment

The Kayelekera uranium mine commenced production in mid-2009. Total production in 2009 amounted to 104 tons of uranium.[146] In the first nine months of 2010, total production amounted to 464 tons of uranium.[147] Paladin estimates that the Kayelekera uranium mine will have a life of nine years, based on annual production of 1,269 tons of uranium. It is estimated that this production rate will be reached by 2012. An expansion to an annual production of 1,462 tons of uranium is targeted for mid-2013.[148] The processing of marginal ores at the end of the mine's life is expected to add an additional three to four years to the project life.[149]

The number of permanent employees amounted to 529 for the year ending 30 June 2010.[150]

Government regulations on revenues

According to Paladin the Kayelekera project will make a very substantial fiscal contribution to Malawi and will open up opportunities for employment and improvements to social infrastructure in northern Malawi.[151] In February 2007, the Malawian Cabinet approved the Development Agreement with Paladin. According to Paladin, the agreement provides a stable fiscal regime for at least ten years from the start of production and ensures a high degree of certainty for the project. Key elements include:

- The Republic of Malawi receives a 15 percent stake in the mining company
- Corporate tax rate reduced from 30 percent to an effective 27.5 percent
- Resource rent tax of 10 percent reduced to zero. According to the Malawi Minister of Finance, Ken Kandodo, the resource rent tax would have equated to 7 percent of gross profit, but only if and when the project reached an annual rate of return on investment of 20 percent.[152]
- Reduced royalty rate from 5 percent to 1.5 percent (Years 1–3) and 3 percent (subsequent years)
- No import VAT (17.5 percent) or import duty during the stability period
- Immediate 100 percent capital write-off for tax purposes

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[145] Paladin Energy Ltd, 'Kayelekera Uranium Mine, Malawi Project Finance – Completion Test', 25 October 2010, <http://phx.corporate-ir.net/External.File?item=UGFyZW50SUQ9NjcxNTd8Q2hpbGRJRD0tMXxUeXBlPTM=&t=1>

[146] World Nuclear Association, table 'World Uranium Mining', May 2010, <http://www.world-nuclear.org/info/inf23.html>

[147] Paladin Energy Ltd, 'Quarterly Report', September 2010, page 5, <http://phx.corporate-ir.net/External.File?item=UGFyZW50SUQ9NjYzMjd8Q2hpbGRJRD0tMXxUeXBlPTM=&t=1>
The reported figures (lb, U_3O_8) have been converted into kilograms and uranium.
How many lb in 1 kg? The answer is 2.20462262185. <http://www.convertunits.com/from/lb/to/kg>
How many U in U_3O_8? The answer is 842 divided by 714 = 1.179272.
<http://uk.answers.yahoo.com/question/index?qid=20100627111356AA5QH3W>

[148] Paladin Energy Ltd, 'Annual report year ending 30 June 2010', August 2010, <http://media.corporate-ir.net/media_files/irol/17/176316/2010_AR.pdf>

[149] Paladin Energy Ltd, Factsheet 'Kayelekera mine, Malawi, Southern Africa, in production ramp-up', September 2010, <http://media.corporate-ir.net/media_files/irol/17/176316/Kayelekera.pdf>

[150] Paladin Energy Ltd, 'Annual report 2010', page 55, <http://media.corporate-ir.net/media_files/irol/17/176316/2010_AR.pdf>

[151] Paladin Energy Ltd, Factsheet 'Kayelekera mine, Malawi, Southern Africa, in production ramp-up', September 2010, <http://media.corporate-ir.net/media_files/irol/17/176316/Kayelekera.pdf>

[152] Nyasa Times, 'Finance minister makes statement in parliament on Kayelekera uranium', 30 November 2009, <http://www.nyasatimes.com/national/malawi-finance-minister-makes-statement-in-parliament-on-kayereka-uranium.html>

- Agreed Paladin-financed infrastructure projects (such as the Karonga Water Supply Project estimated to cost USD 8.2 million) to be funded progressively with the implementation schedule
- Thin capitalisation (debt:equity ratio of 80:20)
- Stability period of ten years – no increases in tax/royalty regime and any beneficial changes to be passed on to the project[153]

The fiscal regime under which the Kayelekera Mining Project operates comprises four main components: royalties, company tax, government equity in the project and specified benefits to the local community to be provided by Paladin. In November 2009, the Malawi Minister of Finance, Ken Kandodo, stated that the country expects to receive between 40–45 percent of the total profit made by Paladin (Africa) Limited over the lifetime of the mine.[154] It is not clear how this was calculated.

In November 2009, the Minister of Finance also stated: 'With the world economy showing signs of a rebound, it is reasonable to hope that as the world economy recovers from the recent financial crisis, the price of uranium will also recover and the contribution of this project to our economy should increase accordingly'.[155] However, it should be noted that only from late 2006 onwards were the uranium prices higher than in November 2009. In the period 1996–2006, uranium prices were consistently significantly lower. Since November 2009, the uranium price has been somewhat stable.[156]

Payments by Paladin

In March 2010, Paladin presented a symbolic cheque for MWK 385 million (Malawi kwacha, about EUR 1.9 million) for mining royalties and taxes to the Malawi government.[157] It is not clear which taxes and royalties were included in the amount paid to the Malawi government.

Mining royalty Kayelekera

The mining royalty comprises a percentage of the value of exported uranium (1.5% for Years 1–3 and 3% from year 4 onwards). For the estimation of the mining royalty to be received by Malawi, the following assumptions had to be made:

- The year ending 30 June 2012 (coincidently Paladin and Malawi follow the same financial year) is assumed to be the third year of production under the development agreement
- It is assumed that uranium will be sold at EUR 90 per kilogram. Paladin's average realised uranium sales price (from its uranium mines in Namibia and Malawi) for the year ending 30 June 2010 amounted to EUR 101 per kilogram (2009: EUR 104).[158] In the third quarter of 2010, Paladin sold uranium against EUR 93.6 per kilogram.[159]

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[153] Paladin Energy Ltd, Factsheet 'Kayelekera mine, Malawi, Southern Africa, in production ramp-up', September 2009, <http://phx.corporate-ir.net/External.File?item=UGFyZW50SUQ9MTQ0Mjl8Q2hpbGRJRD0tMXxUeXBlPTM=&t=1>

[154] Nyasa Times, 'Finance minister makes statement in parliament on Kayelekera uranium', 30 November 2009, <http://www.nyasatimes.com/national/malawi-finance-minister-makes-statement-in-parliament-on-kayereka-uranium.html>

[155] Nyasa Times, 'Finance minister makes statement in parliament on Kayelekera uranium', 30 November 2009, <http://www.nyasatimes.com/national/malawi-finance-minister-makes-statement-in-parliament-on-kayereka-uranium.html>

[156] Cameco, 'Long-term uranium price, historical', March 1996 until October 2010, <http://www.cameco.com/marketing/uranium_prices_and_spot_price/spot_price_5yr_history/>

[157] Mining Weekly, 'Malawi government receives first tax, royalty payments from Kayelekera mine', 12 March 2010, <http://www.miningweekly.com/article/malawi-govt-receives-first-tax-royalty-payments-from-kayelekera-mine-2010-03-12>
Exchange rate at 1 March 2010, EUR 1 = MWK 205.6, <http://eur.kurs24.com/mwk/history/?q=365>

[158] Paladin Energy Ltd, 'Annual report 2010', page 34, <http://media.corporate-ir.net/media_files/irol/17/176\316/2010_AR.pdf>
The prices were in USD per pound of U_3O_8. This is converted to EUR per kilogram of uranium.
How many lb in 1 kg? The answer is 2.20462262185. <http://www.convertunits.com/from/lb/to/kg>

- It is assumed that mining production in the years ending 30 June 2012 and 30 June 2013 will reach 1,269 tons of uranium. For the years after that ending 30 June 2014 (Years 5–9), production is assumed to be at 1,462 tons per year.

Table 18: Possible royalty revenues for Malawi from the Kayelekera project

	Year ending 30 June 2010160	Estimate Year 3, ending 30 June 2012	Estimate Year 4, ending 30 June 2013	Estimate Years 5–9 (per year)
Volume sold (1,000 tons of uranium)	0.4	1.27	1.27	1.46
Average sales price uranium (EUR/kilogram)	128.0	90	90	90
Sales to external customers (EUR millions)	49.2	114.2	114.2	131.6
Royalty rate	1.5%	1.5%	3.0%	3.0%
Royalty revenues (EUR millions)	0.71	1.7	3.4	3.9

1) Paladin's annual report 2010 states on page 37 that during the year some uranium had to be bought from Paladin Nuclear Ltd, in order to fulfil the obligations of Paladin (Africa) Limited. It is not clear whether these sales were also subject to mining royalties. If not, the amount of royalties paid would be lower than the estimated EUR 0.7 million in Table 18.

Corporate income tax Kayelekera

It is far more difficult to calculate the revenues from profits arising from the mining company. The company is able to delay the declaration of taxable income for many years due to the huge capital and operational expenditures involved in mining. It is estimated that company capital expenditures are running at up to USD 215 million.[161] The company is unlikely to declare any profits until it has recouped these expenses. This may take several years. Malawi also offers significant tax relief for the mine development costs: there is an immediate write-off of all mining-related expenses in place, in contrast to the earlier arrangement under which capital expenditures were depreciated over a number of years.[162] Accelerated capital depreciation allows mining companies to deduct all or most of the estimated wear and tear costs of their machinery and equipment immediately or in the first few years of the project.

Paladin's annual report 2010 states that over the Kayelekera project may eventually be liable for corporate income tax. This will be the case whenever it makes profits that can't be compensated by negative profit taxes due to losses in previous years. The corporate income tax to be paid may increase due to a reversal of existing temporary differences. In its first years of operation, the company may have accelerated depreciation of its plants and equipment. After a few years, however,

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How many U in U_3O_8? The answer is 842 divided by 714 = 1.179272. <http://uk.answers.yahoo.com/question/index?qid=20100627111356AA5QH3W>
Exchange rates European Central Bank, as used by the Euratom Supply Agency, <http://ec.europa.eu/euratom/observatory_price.html>

159 Paladin Energy Ltd, 'Quarterly Report', September 2010, page 5, <http://phx.corporate-ir.net/External.File?item=UGFyZW50SUQ9NjYzMjd8Q2hpbGRJRD0tMXxUeXBlPTM=&t=1>

160 Paladin Energy Ltd, 'Annual report 2010', page 37 and 122, <http://media.corporate-ir.net/media_files/irol/17/176316/2010_AR.pdf>
For the periods July 2008–June 2009 (1.3736) and July 2009–June 2010 (1.3916), the exchange rate USD/EUR was calculated from the European Central Bank: <http://www.ecb.europa.eu/stats/exchange/eurofxref/html/usd.xml>
The sales to external customers amounted to USD 133.5 million.
The volume sold amounted to 2,726,000 lb U_3O_8 (equivalent to 1,049 tons of uranium)

161 Paladin Energy Ltd, 'Annual report 2009', page 12, <http://media.corporate-ir.net/media_files/irol/17/176316/arpdn.pdf>

162 World Bank, report 'Malawi mineral sector review, source of economic growth and development', July 2009, <http://www-wds.worldbank.org/external/default/WDSContentServer/WDSP/IB/2009/11/11/000333038_20091111234920/Rendered/PDF/501600ESW0P108101Official0Use0Only1.pdf>

there may be a reversal. This is the case when nothing remains to depreciate for tax purposes, while depreciation for accounting purposes continues. At this stage, taxes have to be paid. However, new investments could again bring about accelerated depreciation, with the government still receiving no taxes.

ANNEX E: Factsheet AngloGold Ashanti in South Africa

South Africa and uranium mining

South Africa

South Africa is located at the southern tip of the African continent and has a population of 49 million people. The first multi-racial elections in 1994 brought an end to apartheid. South Africa is an emerging country, with an abundant supply of natural resources, and it also has well-developed financial, legal, communications, energy and transport sectors. However, unemployment remains high.[163] In 2008, raw and processed mineral products accounted for 41 percent of the value of total exports. Employment in the mining industry amounted to over 500,000 in 2008, with platinum group metals (39%), gold (32%) and coal (13%) having the largest shares.[164]

Uranium mining

Uranium production in South Africa has generally been a by-product of gold or copper mining. The first company to exploit the uranium-rich slurries from gold mining was founded in 1951.[165] Over the period 2003–2009 the annual production of uranium in South Africa has slightly decreased, amounting to between 500 and 800 tons.[166] AngloGold Ashanti is by far the largest uranium mining company in South Africa.

The South African government does not participate in the Extractive Industries Transparency Initiative (EITI), which is a coalition of governments, companies, civil society groups, investors and international organisations that aims to improve governance in resource-rich countries through the verification and full publication of company payments and government revenues from the extractives sector (oil, mining and gas). AngloGold Ashanti supports EITI.[167]

Investment plans and employment

Production in 2009

In 2009, South Africa was the world's eleventh-ranking producer of uranium. In 2009, mining production amounted to 563 tons,[168] almost entirely supplied by AngloGold Ashanti. The company produced 554 tons of uranium in 2009 from three mines in the Vaal River Region (Great Noligwa,

[163] CIA World Fact Book, 'South Africa', <https://www.cia.gov/library/publications/the-world-factbook/geos/sf.html>
[164] U.S. Geological Survey, '2008 Minerals Yearbook, South Africa', June 2010, <http://minerals.usgs.gov/minerals/pubs/country/2008/myb3-2008-sf.pdf>
[165] World Nuclear Association, 'Nuclear Power in South Africa', updated November 2010, <http://www.world-nuclear.org/info/inf88.html>
[166] World Nuclear Association, table 'World Uranium Mining', production figures 2003–2009, May 2010, <http://www.world-nuclear.org/info/inf23.html>
[167] Extractive Industries Transparency Initiative (EITI), 'Supporting Companies', <http://eiti.org/supporters/companies>
[168] World Nuclear Association, table 'World Uranium Mining', production figures 2003–2009, May 2010, <http://www.world-nuclear.org/info/inf23.html>

Kopanang and Moab Khotsong). The other region of gold production, the West Wits region, does not conduct uranium mining.[169]

Expected production in 2012

Several companies are making plans to extract uranium in South Africa. It should be noted that it is not always clear whether, when and to what extent these plans will actually be implemented. Based on the information available for this report, expected uranium mining production in South Africa is estimated at 1,500 tons for 2012. This estimation is based on information about the following projects:

- In May 2009 **AngloGold Ashanti** announced plans to construct a new uranium recovery plant at its Kopanang mine to lift production to almost 900 tons per year from 2012.[170]
- **First Uranium** will start its Mine Waste Solutions (MWS) gold and uranium project at the Buffelsfontein mine.[171] Uranium sales are expected to amount to 402 tons of uranium during the year ending 31 March 2013.[172]
- **Shiva Uranium** is a company with Indian and South African shareholders which recently bought the Dominion Reefs project. In late 2008, this mine was closed. Production in 2007 and 2008 was below 100 tons U_3O_8 each year. However, Shiva wants to bring the mine back into full production soon.[173]
- **First Uranium** has built a USD 55 million uranium processing plant at the Ezulwini gold mine. Production is expected to reach 150 tons of uranium in the year ending 31 March 2013.[174] During August 2010, the uranium plant was closed for repair of some installations. Production amounted to 15 tons during the period March–September 2010.[175]
- **Rand Uranium** is a non-listed company within South Africa's private equity fund Pamzodi Resources (60%) and Harmony Gold Mining Co. Ltd. (40%). Following a feasibility study, a USD 470 million treatment plant to produce 960 tons of uranium per year is planned, mostly from Randfontein (Cooke) tailings.[176] Production is first expected mid-2012. The project will probably be delayed due to the low price of uranium.[177]

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[169] AngloGold Ashanti, 'Annual Financial Statements 2009', page 298, <http://www.AngloGold.co.za/subwebs/informationforinvestors/reports09/AnnualReport09/f/AGA_AR09.pdf>
The reported figures (1.44 million lb of U3O8) have been converted into kilograms and uranium.
How many lb in 1 kg? The answer is 2.20462262185. <http://www.convertunits.com/from/lb/to/kg>
How many U in U3O8? The answer is 842 divided by 714 = 1.179272.
<http://uk.answers.yahoo.com/question/index?qid=20100627111356AA5QH3W>

[170] World Nuclear Association, 'Nuclear Power in South Africa', updated November 2010, <http://www.world-nuclear.org/info/inf88.html>

[171] World Nuclear Association, 'Nuclear Power in South Africa', updated November 2010, <http://www.world-nuclear.org/info/inf88.html>

[172] First Uranium, presentation 'Our focus is gold, our advantage is uranium', 29 July 2010, <http://www.firsturanium.com/sjfu/action/media/downloadFile?media_fileid=1446>

[173] World Nuclear Association, 'Nuclear Power in South Africa', updated November 2010, <http://www.world-nuclear.org/info/inf88.html>
Shiva Uranium, 'Shiva set to make its mark as a major South African uranium producer', 13 May 2010, <http://www.shivauranium.com/news.html>

[174] World Nuclear Association, 'Nuclear Power in South Africa', updated November 2010, <http://www.world-nuclear.org/info/inf88.html>

[175] First Uranium, 'First Uranium announces financial results for the three and six months ended September 30, 2010', October 2010, <http://www.firsturanium.com/sjfu/action/media/downloadFile?media_fileid=1570>

[176] World Nuclear Association, 'Nuclear Power in South Africa', updated November 2010, <http://www.world-nuclear.org/info/inf88.html>

[177] Miningmx, 'R3.5bn uranium project hit by price slump', 22 September 2010, <http://www.miningmx.com/news/energy/R3.5bn-uranium-project-hit-by-price-slump.htm>

Employment

In South Africa, AngloGold Ashanti's workforce comprised 33,355 employees and 4,070 contractors at the end of 2009.[178] By far most of this employment is related to gold mining.

Government regulations on revenues

Mining tax rate

In South Africa, mining operations are taxed on a variable rate that increases as profitability increases. The formula for determining the South African mining tax rate for 2009 and 2010 is: Y = 43 – 215/X. Y reflects the calculated percentage, which represents the rate of tax to be levied. X is expressed as a percentage and calculated as follows: taxable income from gold and uranium mining divided by total revenue (turnover) from gold and uranium mining.[179]

Non-mining income was taxed at 35 percent in 2009 for companies that chose to be exempt from the payment of Secondary Tax on Companies (STC),[180] as did AngloGold Ashanti.[181]

PAYE, UIF and SDL

Employees have to pay income taxes on their wages (Pay-As-You-Earn, PAYE), and employers and employees must both contribute to the Unemployment Insurance Fund (UIF) at a rate of 1 percent of earnings up to a maximum threshold, currently standing at ZAR 12,478 per month. The role of the employer is to collect the payments and pass them on to the government.

The SDL is a compulsory levy scheme for the purpose of funding education and training as envisaged in the *Skills Development Act*. The levy (1 percent of the remuneration of employees) is payable by employers on a monthly basis.[182] Each month, employers have to report PAYE, UIF and SDL contributions to the government.[183]

Accelerated depreciation

Mining companies are allowed to deduct all mining-related capital expenditures in the year in which they occurred. The exemption applies not only to investments in mineral production but also to many other costs incurred in the pre-production period, such as management, administration, development and interest. The tax code allows for unlimited carry-forward of capital expenditure.

Under ring-fencing legislation the Vaal River Operations and West Wits Operations of AngloGold Ashanti are treated separately. The deduction of capital expenditure for a particular operation can only be utilised against income generated by the same operation.[184] This ring-fencing exclusion can be

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[178] AngloGold Ashanti Sustainability Review 2009, page 45, <http://www.AngloGoldashanti.co.za/subwebs/informationforinvestors/reports09/SustainabilityReview09/f/AGA_SR09.pdf>
[179] South African Revenue Service, Guide for tax rates/duties/levies (2010/11 and prior years), November 2010, <http://www.sars.gov.za/home.asp?pid=54773>
[180] South African Revenue Service, Guide for tax rates/duties/levies (2010/11 and prior years), November 2010, <http://www.sars.gov.za/home.asp?pid=54773>
[181] AngloGold Ashanti, 'Annual Financial Statements 2009', page 258, <http://www.AngloGold.co.za/subwebs/informationforinvestors/reports09/AnnualReport09/f/AGA_AR09.pdf>
[182] South African Revenue Service, 'Guide for SDL', <http://www.sars.gov.za/home.asp?pid=190>
[183] South African Revenue Service, 'PAYE Overview booklet', November 2010, <http://www.sars.gov.za/home.asp?pid=187>
[184] AngloGold Ashanti, 'Annual Financial Statements 2009', page 259, <http://www.AngloGold.co.za/subwebs/informationforinvestors/reports09/AnnualReport09/f/AGA_AR09.pdf>

breached in certain circumstances, but only up to a maximum of 25 percent of the taxable income from another mine.[185]

Mineral and Petroleum Resource Royalty

A Mineral and Petroleum Resources Royalty became payable from 1 March 2010. The royalty provides compensation to the state for the country's permanent loss of non-renewable resources.[186]

The two critical determinants for the calculation of the royalty payable are gross sales and EBIT. The latter is defined as earnings before interest and taxes, which is equal to the aggregate of gross sales and less any amount allowed to be deducted in terms of the *Income Tax Act*.

There is a distinction between unrefined and refined mineral resources. The formula for refined mineral resources is: 0.5 + [EBIT/gross sales x 12.5] x 100. The formula for unrefined mineral resources is: 0.5 + [EBIT/gross sales x 9] x 100.[187] Applying the formula results in a percentage of gross sales which must be paid.

Uranium will be seen as refined to the level that it is considered refined in terms of the royalty formula. As long as the gross sales of by-products (e.g. uranium and silver) account for less than 10 percent of total revenue, the EBIT and gross sales for the entire operations may be used in the formula. Only once the sales of by-products exceed 10 percent, is it necessary to calculate the royalty for gold and by-products separately. To date, the sales of by-products by AngloGold Ashanti have been less than 10 percent of gold sales.[188]

Payments by AngloGold Ashanti

Sales of gold by AngloGold Ashanti from Southern Africa amounted to USD 1.7 billion in 2009. Southern Africa comprised South Africa and Namibia. South Africa accounted for 97 percent of these sales.[189] The sales of uranium over 2009 are not reported by AngloGold Ashanti. Based on the production for 2009 (554 tons), uranium prices on the spot market and uranium pricing commitments, the turnover from uranium sales by AngloGold Ashanti for 2009 are estimated to be about USD 60 million.[190] This means that uranium comprises only about 3 to 4 percent of the South African sales by

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[185] Foreign Investment Advisory Service, joint service of the International Finance Corporation and The World Bank, 'Sector Study of the Effective Tax Burden, South Africa', April 2006, <http://www.ifc.org/ifcext/fias.nsf/AttachmentsByTitle/Zambiataxconference_BackgroundpapersSouthAfrica/$FILE/SOUTH+AFRICA-METR+Study_+April+2006final.pdf>

[186] South African Revenue Service, 'Mineral and Petroleum Resource Royalty', <http://www.sars.gov.za/home.asp?pid=52683>

[187] PricewaterhouseCoopers, 'Mineral and Petroleum Resources Royalty', <http://www.pwc.com/za/en/mining-tax/mineral-and-petroleum-resources-royalty.jhtml>

[188] Response to draft factsheet by AngloGold Ashanti, emails from Alan Fine on 10 December 2010.

[189] AngloGold Ashanti Sustainability Review 2009, page 2 and 3, <http://www.AngloGoldashanti.co.za/subwebs/informationforinvestors/reports09/SustainabilityReview09/f/AGA_SR09.pdf>

[190] This calculation is meant for comparison with gold sales only. The average contracted price over 2010 for a production of 190 tons amounted to around USD 90 per kilogram of uranium. For 2009, the same conditions have been assumed. The remainder of production (554–190 tons) is assumed to be sold at a spot market price of around USD 119 per kilogram uranium.
AngloGold Ashanti, 'Annual Financial Statements 2009', page 298, <http://www.anglogold.co.za/subwebs/informationforinvestors/reports09/AnnualReport09/f/AGA_AR09.pdf>
The reported figures (lbs, $ and U3O8) have been converted into kilograms, EUR and uranium.
How many lb in 1 kg? The answer is 2.20462262185. <http://www.convertunits.com/from/lb/to/kg>
How many U in U3O8? The answer is 842 divided by 714 = 1.179272.
<http://uk.answers.yahoo.com/question/index?qid=20100627111356AA5QH3W>

AngloGold Ashanti. Therefore, it should be noted that the payments by AngloGold Ashanti to the South African government mainly reflect sales of gold rather than uranium.

In July 2010, AngloGold Ashanti responded to a report by the NGO, DanWatch, entitled 'Unrestrained Consumption – on Africa's Expense'.[191] In the report, DanWatch made some references to mechanisms that allow multinational companies to pay little tax in developing countries. AngloGold Ashanti responded as follows: '... we should point out that we are domiciled in South Africa (not known as a tax haven); and our financial accounts are prepared and audited in line with both SA and US regulatory requirements. We do report, on a country-by-country basis, remittances to governments in the interests of transparency'.[192] The figures for payments by AngloGold Ashanti to governments (on a country-by-country basis) can be found in the company's sustainability report for 2009. Table 19 below shows a breakdown of payments by AngloGold Ashanti related to its South African operations over the years 2008 and 2009.[193] The taxes paid include mining and non-mining taxes and may include taxes relating to prior years when assessed.[194]

Table 19: Actual taxes paid for South African operations by AngloGold Ashanti over 2008 and 2009 (USD millions)[195]

	2009	2008
Taxes paid over the current year	17.7	6.4
Employee taxes collected (e.g. PAYE and UIF)	92.1	82.8
Property tax	2.2	1.9
Skills Development Levy (SDL)	5.7	–
Total	**117.7**	**91.1**

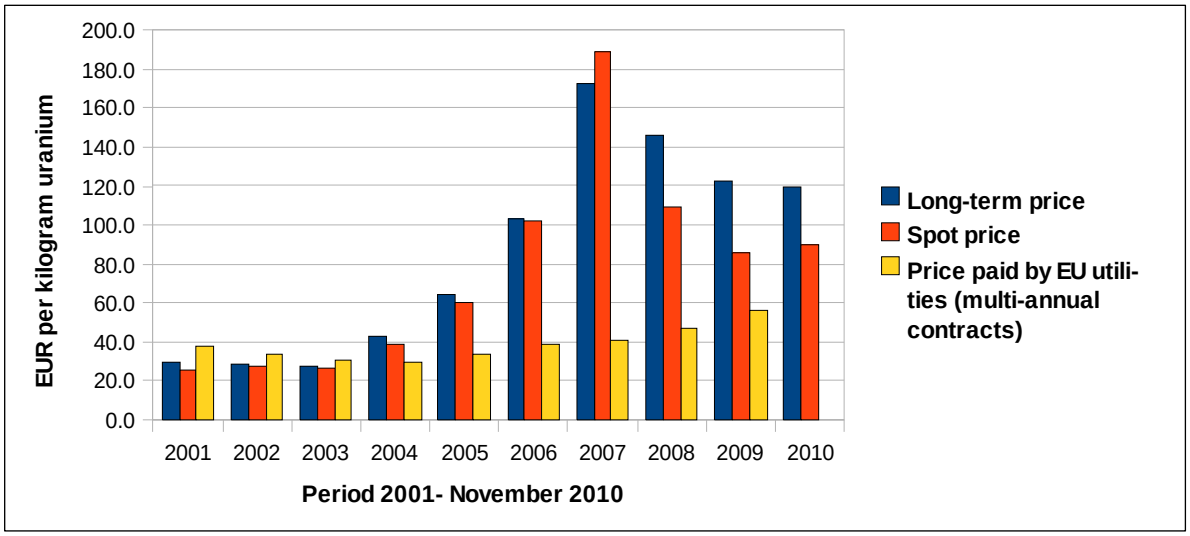
[191] DanWatch, 'Unrestrained Consumption - on Africa's Expense', April 2010, <http://www.danwatch.dk/images/Reports/unrestrained%20consumption.pdf>
[192] Business & Human Rights Resource Centre, 'AngloGold Ashanti's response', 13 July 2010, <http://www.reports-and-materials.org/AngloGold-Ashanti-response-re-DanWatch-reports-Ghana-13-Jul-2010.doc>
[193] AngloGold Ashanti Sustainability Review 2009, page 55, <http://www.AngloGoldashanti.co.za/subwebs/informationforinvestors/reports09/SustainabilityReview09/f/AGA_SR09.pdf>
[194] Response to draft factsheet by AngloGold Ashanti, emails from Alan Fine on 10 December 2010.
[195] AngloGold Ashanti Sustainability Review 2009, page 55, <http://www.AngloGoldashanti.co.za/subwebs/informationforinvestors/reports09/SustainabilityReview09/f/AGA_SR09.pdf>

ANNEX F: Trends in uranium prices

Uranium prices over the last ten years

Historical and present uranium prices can be found on the website of the Canada-based Cameco, one of the largest uranium mining companies in the world. Cameco calculates industry average prices from the month-end prices published by Ux Consulting and TradeTech.[196] Figure 2 and Table 20 below are adapted from figures published by Cameco[197] and the Euratom Supply Agency of the European Commission,[198] and present the average price of uranium over the last ten years. The Cameco figures reflect the prices paid at that moment for buying uranium on the spot market or to conclude a long-term contract. The figures of the Euratom Supply Agency reflect the prices paid by utilities within the European Union (EU) under previously signed multi-annual contracts.

Figure 2: Annual average price of uranium during the period 2001–November 2010



From the figure, it can be seen that both long-term and spot prices have been subject to huge changes over the last ten years. While in the period 2001–2003 prices ranged between EUR 25 and EUR 30, they increased drastically after this period, peaking at more than EUR 170 during 2007. Since 2007, prices have dropped, but they are still higher than in 2005.

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[196] Cameco, 'Uranium prices', <http://www.cameco.com/marketing/uranium_prices_and_spot_price/spot_price_complete_history/>

[197] The annual figures have been calculated by summing up the monthly prices and dividing them by 12. The prices were in USD per pound of U_3O_8. This is converted to EUR per kilogram of uranium. How many lb in 1 kilogram? The answer is 2.20462262185. <http://www.convertunits.com/from/lb/to/kg> How many U in U_3O_8? The answer is 842 divided by 714 = 1.179272. <http://uk.answers.yahoo.com/question/index?qid=20100627111356AA5QH3W> Exchange rates European Central Bank, as used by the Euratom Supply Agency, <http://ec.europa.eu/euratom/observatory_price.html> For the period January–October 2010, the exchange rate was calculated from the European Central Bank: <http://www.ecb.europa.eu/stats/exchange/eurofxref/html/usd.xml>

[198] European Commission, Euratom Supply Agency, Nuclear Observatory, 'ESA average uranium prices', <http://ec.europa.eu/euratom/observatory_price.html>

Table 20: Annual average price of uranium during the period 2001–November 2010

	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
Long-term price[199]	29	29	28	43	64	103	172	146	123	119
Spot price[200]	25	27	27	39	60	102	188	109	86	89
Multi-annual contracts EU utilities[201]	38	34	31	29	34	38	41	47	56	??

The prices paid by EU utilities under multi-annual contracts with uranium producers have been significantly lower than the long-term and spot prices since 2004. According to the Euratom Supply Agency, the European utilities are not greatly exposed to temporary price fluctuations on the market as they are well covered by existing long-term contracts and also hold adequate stocks.[202] However, the price paid through multi-annual contracts by EU utilities increased by 66 percent in the period 2005–2009, from EUR 33.6 per kilogram in 2005 to EUR 55.7 per kilogram in 2009.

The EU utilities may have bought some uranium on the spot market as a supplement to the amounts in the multi-annual contracts. According to the Euratom Supply Agency, only 5.2 percent of all uranium deliveries to EU utilities in 2009 were purchased under spot contracts. Usually, the spot market accounts for less than 15 percent of the total quantity of uranium traded.[203]

Uranium prices since the 1980s

The following Figure 3 shows the uranium prices published by Cameco and the Euratom Supply Agency of the European Commission since the 1980s, as far as available on their websites. It should be noted that the period 2006–2010, as reflected in Figure 3, actually comprises the period 2006–2009 for the EU utilities and the period 2006–November 2010 for the Cameco-prices.

Figure 3 provides insight into the uranium prices over the last 30 years.
Looking at the Cameco-prices (in blue and orange), it shows that the prices on the world market have

[199] The annual figures have been calculated by summing up the monthly prices and dividing them by 12.
The prices were in USD per pound of U_3O_8. This is converted to EUR per kilogram of uranium.
How many lb in 1 kilogram? The answer is 2.20462262185. <http://www.convertunits.com/from/lb/to/kg>
How many U in U_3O_8? The answer is 842 divided by 714 = 1.179272.
<http://uk.answers.yahoo.com/question/index?qid=20100627111356AA5QH3W>
Exchange rates European Central Bank, as used by the Euratom Supply Agency,
<http://ec.europa.eu/euratom/observatory_price.html>
For the period January–October 2010, the exchange rate was calculated from the European Central Bank:
<http://www.ecb.europa.eu/stats/exchange/eurofxref/html/usd.xml>

[200] The annual figures have been calculated by summing up the monthly prices and dividing them by 12.
The prices were in USD per pound of U_3O_8. This is converted to EUR per kilogram of uranium.
How many lb in 1 kilogram? The answer is 2.20462262185. <http://www.convertunits.com/from/lb/to/kg>
How many U in U_3O_8? The answer is 842 divided by 714 = 1.179272.
<http://uk.answers.yahoo.com/question/index?qid=20100627111356AA5QH3W>
Exchange rates European Central Bank, as used by the Euratom Supply Agency,
<http://ec.europa.eu/euratom/observatory_price.html>
For the period January–October 2010, the exchange rate was calculated from the European Central Bank:
<http://www.ecb.europa.eu/stats/exchange/eurofxref/html/usd.xml>

[201] European Commission, Euratom Supply Agency, Nuclear Observatory, 'ESA average uranium prices',
<http://ec.europa.eu/euratom/observatory_price.html>

[202] European Commission, Euratom Supply Agency, Nuclear Observatory, 'ESA average uranium prices',
<http://ec.europa.eu/euratom/observatory_price.html>

[203] European Commission, Euratom Supply Agency, Nuclear Observatory, 'ESA average uranium prices',
<http://ec.europa.eu/euratom/observatory_price.html>

been significantly lower in the period 1991–2005, compared to the period 2006–2010.

The prices paid by the EU utilities were available from the 1980s onwards. The price for spot contracts signed by EU utilities reflect the prices EU utilities were willing to pay at that moment. Figure 3 shows that the uranium prices were higher in the period 1981–1990, compared to the period 1991-2005. Figure 3 also shows that the uranium prices were lower in the period 1981–1990, compared to the period 2006–2010.

The prices paid by EU utilities due to previously signed multi-annual contracts, have been consistently declining in the period 1981–2005. In the period 2006–2009 they have been increasing again, and are back at the level of the period 1991–1995.

Figure 3: Uranium prices since the 1980s