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What good is an oil sector without oil?

How regime security and short-termism explains DR Congo's (non-)oil sector.

- The DRC has major possibilities for oil development, but very little actual development.
- A major barrier is state inaction or blockages.
- These emerge due to regime stability concerns. These are manifests in two key ways:

  1. The sector is a major source of patronage and rent-extraction. These rents are not created through the active production and development of the sector, but through selling access.

  2. Oil sector development is contrary to regime stability: internal geopolitics, regional relationships, and central control over major wealth are threatened by sector development.

- These elements have not only prevented companies from exploration and production, but have discouraged further investor interest.
- Change is unlikely. The disincentives which have blocked development in the past remain strong.

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Potential and limited production

The DRC has proven reserves of 180 million barrels, which primarily feeds current production, and is largely restricted to the littoral. If a range of studies and declarations on the potential of various oil blocks are accurate, DRC's potential could go beyond 20 *billion* barrels.

Through the development of the above potential, the DRC would be the second most significant oil state in Africa, behind only Nigeria, which has proven reserves of around 37 billion barrels, and well ahead of Angola's current 9 billion barrels. Yet limited progress has been made since the 1990s, and production remains at a paltry 25,000 bpd.

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Barriers for the private sector: not just logistics

Exploring, producing and exporting oil from DRC is neither easy nor cheap. Vast distances, thick equatorial forest, and minimal or absent infrastructure make oil production challenging and costly. Transport to export poses the greatest barrier: by rail or road, costs would make Congolese oil unprofitable. A pipeline (nicknamed "The Reptilian") mooted to run 1500km from fields in the interior to the coast would cost several billion dollars. The project has never moved beyond early discussion. However, and central to this paper, these elements do not adequately account for limited development, as, these are important but far from insurmountable obstacles. Our research shows that far more important in understanding the lethargy of the DRC oil sector is the fact that the Congolese government has no real interest in actively developing the sector, having both actively and passively blocked development.

The state's attitude: selling access, not developing a sector

Crucial to this state policy is that developing the sector takes too long, with constant investment, while the time horizons and careers of politicians are short and unstable. As a result, the main commodity of interest to the state is not the oil produced, but rather the rents granting access, such as to oil-related property rights. Oil policy is focussed on the short-term and on cash, for which reason the sale of access and rights trumps an interest in sectoral development.

Examples of these dynamics are plenty. In a striking series of events two blocks were reassigned twice in four years. For Blocks I and II of the Albertine Graben field, contracts signed with Tullow in 2006 were torn up in 2008, and Block I assigned to a consortium headed by Divine Inspiration Group, a South African company. Both Blocks were then reassigned in 2010 to Caprikat & Foxwhelp (now Oil of DRC), shell companies held by Dan Gertler, the Israeli mining baron with close ties to President Kabila. The value of enduring contracts was minimal to the state, but the value of their provision to new partners, both by granting favour and by receiving rents, was significant at each signing.

As our research shows, the overwhelming majority of state activity in the DRC's oil sector is ministerial-level rent seeking. Ministerial budgets, often essential for developing the sector, are diverted by officials. For example, state budgets assigned for oil exploration are not used. Further, the ministry customarily extracts vast sums from oil companies in return for access. Access to documents or data could cost tens of thousands of dollars. Payments are also required in order to meet the minister, or a civil servant. Signature of Memoranda of Understanding (MOUs), a preliminary step before full contracts, can formally cost six-figure sums, though informal or fictive 'taxes' can push costs over $1 million. Finally, Production Sharing Contracts (PSCs) require companies to pay formal signature bonuses of several million dollars.

Examples of rent-seeking

Around 2010, the oil ministry signed a series of MOUs, many overlapping, at a cost of hundreds of thousands of dollars each, before tearing most of them up. Customers (which were mostly unknown companies) were offered easy profits from flipping – selling on at much higher prices without value addition – in return for informal payments to the oil ministry. The ministry had no developmental purpose in mind with any of these agreements. Thirty-four MoUs were signed for a handful of blocks, causing multiple overlaps.

A long-time chief of staff published a price list for meetings, reflecting typical informal requirements. Meeting him cost $6000 within the ministry, or $9000 at another location. Discussions with lesser advisors would cost $5000 to $7000 according to location.

Presidential control is crucial

Oil is considered by Kabila and his advisors as a 'strategic' sector, requiring tight presidential control. The oil sector is an oddity within the category of strategic sectors, being largely inactive: *not* developing the sector is considered to be more beneficial than actively developing it. The particularities of the presidency's strategic priorities for the oil sector are the key to understanding this peculiar outcome.

Presidentialisation is facilitated first by the law. Contracts must be approved by the president to be valid. Without this approval, a contract cannot be sold or worked upon. This also means that the President can easily block contracts when they do not accord with his regime-security calculus. This calculus includes control and maximisation of rents, ensuring profits do not accrue to opponents, and developing internal and external relationships.

The president also asserts control over the Minister of Hydrocarbons. The minister is consistently chosen as a presidential loyalist who will follow presidential requirements, will not act on major issues without presidential orders or consent, and will follow any presidential commands to the letter. The Ministry of Hydrocarbons is one of a small number of key ministries which the president retains "under his rod", alongside such portfolios as Defence, Mines and Finance. Not only are ministers chosen by the presidency, but also major decisions are made by the presidency, not the ministry.

Internal political disincentives to develop

The oil sector also constitutes a risk for internal political control. It presents a potential source of revenue for political opponents of the regime, which might be used to raise either voters or armed groups. Oil production might also emerge in areas of Congo hostile to the regime, providing clout and influence where it is not wanted. In other words: for reasons of regime security developing the sector is seen as a threat. For example, some of the blocks currently overlapping Salonga National Park were left without presidential approval for over a decade for precisely this reason. COMICO, the company who held the contracts, had direct financial ties to a top aide to Jean-Pierre Bemba, perhaps Joseph Kabila's greatest rival. Developing these fields would have brought profits to the former Equateur province, a stronghold of Mr Bemba. Opening up the fields may have also required facilitation payments to Bemba, his associates, and other regime outsiders from the region. Although it is unclear whether or not direct connections have been severed, the indirect elements of this remain the same, and may play a role in political deals with Mr. Bemba around upcoming elections.

External geopolitics as barriers to development

Oil contracts have been used to cement support from South Africa. South Africa is the largest single supplier of goods and services to the DRC, making up 30% of imports, as well as one of the top aid contributors. Zuma's South Africa was characterized as "Kabila's closest bilateral ally and…a key lifeline for his continued grip on power", a relationship that is deeply tied to personalised business dealings, including oil contracts. A major reason that Caprikat & Foxwhelp gained their contracts on Lake Albert was the involvement of the Zuma family, via the South African president's nephew, Khulubuse Zuma. By contrast, the prior contract for Block I, held by the Divine Inspiration consortium, was connected financially to the Moseneke family, close allies of Thabo Mbeki (a rival to Jacob Zuma). This connection contributed to the contract's annulation. Such arbitrary distribution of favour greatly alters private sector confidence in the sector. Further, whether such dynamics will endure under South Africa's new leadership remains to be seen.

In the immediate region, oil acts as both debt and protection payment to neighbouring states. This applies principally to Angola: the DRC has unquestionable basis in international law – through the United Nations Convention on the Law of the Sea (UNCLOS) – to claim a significant extension to its maritime territory. The most justifiable area for this claim to be made cuts through Angola's most productive offshore blocks. Estimates broadly put production in this area at around half of Angolan production, which stands at around 1.8 million barrels per day. The addition of this production would move the DRC to the second or third largest oil producer in sub-Saharan Africa, from its current 12th place. On the one hand, the DRC has for a decade and a half made an intentionally noisy, continuous and international legal claim to segments of Angola's most productive oil blocks. On the other hand, it has never seriously acted upon this claim, allowing Angola to keep exploiting. This also serves a strategic aim: this claim serves as a reminder and possibility that this grace might be withdrawn, and primarily seeks to cement support from Angola. Due to the value of these blocks, and Angola's military predominance, support, and deep involvement in the DRC, jeopardising this carefully balanced policy could have existential consequences for the Kabila regime, therefore requiring highly centralised decision-making power.

Scaring off the private sector

All of the above factors have undermined fundamental requirements for many investors: dependable property rights, predictability, and administrative facilitation. Due to the risks presented by these shortcomings, small companies with lower risk thresholds dominate the DRC oil sector. This will not change in the near future. Yet small companies would likely rely on large companies to explore produce, or to export. Many such small companies sign contracts with the intention of reselling to larger companies or farming in more capable partners. They are often not capable of exploration alone, let alone production. Others lack the capital or the investor confidence required to provide the major infrastructure required to export oil from the DRC at profit. Due to the dismal perception of investment risk from the private sector, companies of all sizes have demonstrated little desire to make

Key resources on DRC oil

Africa Energy Intelligence reporting, available at https://www.africaintelligence.com

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Extractive Industries Transparency Initiative reports, available at http://www.itierdc.net/publications/

International Crisis Group. (2012, July 11). Black Gold in the Congo: Threat to Stability or Development Opportunity? Kinshasa/Nairobi/Brussels: Author

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sizeable investments in exploration. Even the purchase of blocks appears unattractive: no new contracts have been signed for oil blocks since 2010. Even state companies from rising economies are not making investments: in contrast to Chinese strategic moves to take greater control of the cobalt sector, no Chinese companies have made moves in the DRC oil sector.

A new lease of life? Don't be so sure.

A burst of activity has occurred in the oil sector since the end of 2017. There is talk of de-classifying parts of Virunga and Salonga national parks, as well as recent extensions, renewals, and presidential approvals on contracts. Observers are right to understand these events as a search for cash. The DRC is meant to have elections – two years late – this December. To ensure victory, the regime needs cash. However, these developments equally do not mean that the state is serious about oil production. Neither the Presidency nor the Ministry of Hydrocarbons has demonstrated any concrete steps being made to reduce this pattern of risks, nor to provide for long term production plans. In light of continued disincentives to long-term development for the state, and the unchanged risk environment for private companies, it is unlikely that we will see any more oil flowing in DRC in the near future.

Political uncertainty makes prediction difficult beyond elections. However, Mr Shadary's incentives on oil would be similar to President Kabila's. Most of these issues also apply to opposition contenders.