



Note additionnelle à PCQVP-CONGO

La note de la coalition « **Publiez ce que vous payez Congo du 15 mai 2017** » apparaît comme incomplète et biaisée. En effet, aucune mention du scandale **Sundance, de l'affaire Magalloy, de l'exploitation illégale de l'or dans la Sangha ou encore de l'affaire Philia impliquant Denis Christel Nguesso.**

Cette note présente le Congo comme un Etat de droit où un simple accompagnement du FMI pourrait améliorer la situation alors qu'il y sévit depuis le 04 Avril 2016, une guerre d'épuration ethnique dans la région du Pool. Le dernier rapport du département d'Etat Américain sur les droits de l'Homme au Congo-Brazzaville précise bien que toutes les lois, traités internationaux et codes de procédures sont systématiquement violés par le régime de Brazzaville. Nous sommes face à un Etat voyou qui utilise l'argent des industries extractives et la corruption internationale pour financer ses guerres et son maintien au pouvoir par la terreur. Toutes les institutions de l'Etat sont illégales et illégitimes depuis le 6 novembre 2015 ,du fait du référendum illégal [au titre de l'article 185 de la Constitution du 20 janvier 2002] qui a permis l'abrogation de celle-ci. Ce référendum qui s'est tenu dans un huis clos violent (internet, SMS et téléphone coupés, une quarantaine de morts) a ouvert la voie à la réélection frauduleuse de Denis Sassou Nguesso le 20 mars 2016. Cette réélection frauduleuse a engendré un nouveau cycle de violence socio-politique et l'incarcération des principaux candidats à l'élection présidentielle : **Jean Marie Michel Mokoko et André Okombi Salissa** ainsi que leurs partisans.

La corruption de l'industrie extractive au Congo-Brazzaville, est le mode principal de financement de la politique de terreur du régime. Il apparaît donc manifeste qu'il n'y a aucune marge de progression possible pour la transparence avec la gouvernance Denis Sassou Nguesso et nous appelons PCQVP à s'impliquer à travers son réseau pour obtenir des sanctions financières et pénales contre le régime de Brazzaville, ainsi que le refus d'un nouveau prêt du FMI à cette kleptocratie criminelle.

Afin de compléter la note du 15 mai 2017, mais surtout de permettre à « **Publiez ce que vous payez** » de prendre les décisions qui s'imposent concernant le régime de Brazzaville, le Collectif #Sassoufit se permet donc de vous adresser le complément d'information ci-dessous :



Chinafrica, deforestation and illegal exploitation of gold in the Sangha or how Sassou finances his war against the Congo

The Congolese Human Rights Observatory (OCDH) published a briefing note following a field mission in March 2017 to investigate alerts on environmental degradation and violations of the rights of communities in the department the Sangha in the Republic of Congo. The exploitation of gold in the region has resulted in several projects by Chinese mining companies in this department.

The briefing note confirms the violations of rights, some of which are against the existing legislation. For example, there has been no socio-environmental impact assessment for mining projects, as required by legislation. In addition, Maud Congo continued its activities in defiance of the suspensive measures taken by the Minister of Mines and none of the companies have an authorization for deforestation.

OCDH has observed severe environmental degradation, including polluted rivers, non-restoration of exploited or explored sites, and lack of health services. Also, the societies did not respect the rights of the local communities and the OCDH observed the destruction of the fields of the peasants and the sacred sites by the mining companies.

OCDH finds that local authorities are in favor of foreign multinationals, and for this reason local and indigenous communities do not receive assistance from their state authorities and their claims initiatives are weakened. OCDH calls on decision-makers to develop approaches that take into account respect for the procedural and substantive rights of communities in the context of business activities.



In Brazzaville, bribe the son Sassou-Nguesso in order to obtain from the father the mining permits

By Emmanuel Freudenthal (Nairobi)

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Documents consulted by "Monde Afrique" involve Denis-Christel Sassou-Nguesso in a corruption case with the Australian Sundance.

On July 19, 2006, in a pretty villa in Brazzaville, Denis-Christel Sassou-Nguesso, the President of Congo youngest son, displays a certain appetite. He has lunch with representatives from the Australian mining company, Sundance Resources, who presented him with the Mbalam-Nabeba project: an iron mine in the wooded hills of western Congo, straddling the border with Cameroon.

Studies are done, investors are ready. The only thing missing is mining licenses, for exploration firstly and exploitation secondly; for which the green light must come from President Denis Sassou-Nguesso himself. This signature of the Head of State, who cumulates more than thirty-two years at the head of the country, is the key to the "casket" containing Congo's natural resources. And the son of the president seems determined to cash it.

A good deal

Denis-Christel is known for his ostentatious lifestyle and luxury tastes, with his Porsche Cayenne or Bentley coupe sports cars, as well as his frequent visits to Christian Dior, Christian Lacroix or Louis Vuitton in the beautiful districts of Paris. And while in his country half of the population lives below the poverty line, according to the World Bank, despite the natural wealth - oil, minerals and wood in particular.

At table with his guests, Denis-Christel reflects on the project. He knows himself in a position of strength because two foreign companies are already competing. Both of us have obtained non-exclusive permits to prospect in the zone coveted by Sundance. Without procrastinating, he asks for an interest in the project presented to him, more important than originally planned.

After this stay in Brazzaville Sundance representatives, two of which are Cameroonian, an internal fax of the Australian company suggests the creation of a company in the Congo of which 30% of the capital would be in the hands of «local shareholders, it is Denis [-Christel] and Rodrigue Nguesso », the latter being the



nephew of the president. The signatory of the fax, a certain David Porter, seems to suggest that the 70% -30% distributions is a good deal: "These people ... who are related to the president, have made deals 50-50 with Foreign oil companies, "he writes.

In November 2006, Congo Iron was created and hastened to apply for exclusive mining permits near Nabeba.

Joined by the Monde Afrique, Denis-Christel Sassou-Nguesso says he has nothing to do with Sundance. "I do not know who they are," he said of the Australian company. "But they told you they knew me?" " Yes. "I do not think they told you they know me. "The son of the Congolese president, nicknamed" Kiki the oil tanker "in his country, refused to answer other questions and hung up dry, concluding:" Rather you must address to them. "

"Kiki the oil tanker"

"Kiki"'s surprise to see his name appearing in the Mbalam-Nabeba mining project is undoubtedly linked to the unusual way this matter is being publicized.

David Porter, 67, a trained geologist, is an old Australian truck driver in the mining world, in his country and in Africa. He initiated the Mbalam-Nabeba project in 2005 and then coordinated the negotiations with the Sassou-Nguesso's.

It was Porter himself who unwittingly revealed the compromising dealings of the company. In conflict with his former employer, who refuses to pay him some of his fees, he sued Sundance in two trials in 2007 and 2013. To justify all the work he has done, he submits to the Perth Tribunal numerous confidential documents, faxes and emails, without suspecting that their content would create a scandal.

These documents, which Monde Afrique was able to consult, are explicit. In his written testimony, Porter tells how, during a visit to Cameroon in June 2006, he proposes to the chairman of the Sundance board of directors, John Corr, to send to Brazzaville one of his acquaintances, Olivier Fabrice Sil, lawyer, and Standard Chartered Bank employee, "who went to university with the President of the Congo's son". Fabrice Sil obtained a master's degree in business law from the University of Versailles Saint-Quentin and then worked in several banks. Porter details his plan: "Potential local partners would be the president's son and other members of his family or close associates and they would expect a share of 30% of the capital."



"On their behalf"

In most cases of corruption, the top executives of the companies involved convinced the investigators that they were unaware of the commissions and bribes decided at lower levels. Not this time. The documents filed in the Perth Court show that several Sundance board members at the time were aware of the Sassou-Nguesso's involvement in the project, including Alec Pismiris and John Corr who could not be joined by Monde Afrique.

At a meeting on December 1, 2006, the Sundance Board of Directors decide to buy back part of the Congolese shares in Congo Iron to reduce its stake to 10%. A month later, Fabrice Sil announces to Sundance colleagues, including the CEO, that Rodrigue and Denis-Christel Sassou-Nguesso are finally ready to sell the shares he "holds on their behalf" in Congo Iron.

A copy of this email was filed in court by Porter himself. Yet, contacted by phone, he said he did not know the identity of Congolese shareholders of Congo Iron, while Fabrice Sil categorically denied that the President Sassou-Nguesso family was involved.

In Perth, on the morning of March 8, 2007, Sundance's board of directors in its glass skyscraper facing the Indian Ocean decides that "the Congolese section" will receive 15 million of Sundance shares in exchange for the 20 % of Congo Iron that the Sassou-Nguesso's agreed to sell, but with the condition of "the issuance of exclusive research permits".

In July 2007, the highly coveted research permits were signed by President Denis Sassou-Nguesso.

Default of payment

A year later, on October 10, 2008, Sundance officially announces on the Australian Stock Exchange that it will increase its stake in Congo Iron to 85% and, for this purpose, it will allocate, in three tranches, 33 million Sundance shares to a screen company registered in Congo, Congo Mining Investments SA (ComInvest), "represented" by Fabrice Sil, but without specifying who the shareholders are. This transaction will have a total value of 9.6 million euros.

In 2012, two months after the payment of the last tranche of shares, President



Sassou-Nguesso signs an operating license that gives Sundance an exclusive right to extract iron from the Nabeba hills.

Sundance's board of directors has been fully renewed since the 2006 and 2007 rulings, and none of its current members have been involved in negotiations with the Sassou-Nguesso's. In addition, the fall of the raw material prices (the fall in commodity prices) from 2011 drove Sundance with it into its downfall, putting the company today in great difficulty. Contacted by email, Sundance management announced that it has launched an internal investigation.

David Porter won his second trial on his fees. Sundance was sentenced in December 2015 to pay him more than 3 million euros. But he may never get the money, partly because Sundance is currently in default (to pay); and partly because the Australian justice system could open an investigation on the basis of his corruption revelations. Australia penalizes corruption abroad with imprisonment of up to 10 years and a heavy fine.

This investigation was carried out in collaboration with the Australian press group Fairfax.

Emmanuel Freudenthal (Nairobi)

MagIndustries Corp reveals evidence that subsidiaries allegedly paid major bribes in Republic of Congo

Potash company MagIndustries Corp. has provided a glimpse of what appears to be a major bribery scandal involving its African subsidiaries. But there may not be any more details to come.

Mag is short of cash and needs money from its controlling shareholder, a Chinese firm called Evergreen Holding Group, to continue funding an independent investigation. Evergreen, which is alleged to be responsible for some of the bribery, said it couldn't afford to put up any money.

That means the investigation has ground to a halt. Every Mag director who was working on it has resigned, and chief financial officer Geoff Woo was removed from his duties. Auditor Ernst & Young LLP has resigned, concluding it can't complete its work amid the controversy.



But the allegations already presented suggest this could be one of Canada's biggest foreign bribery scandals in years. It involves infractions, minor ones such as gifts of furniture, and major ones involving "black money" payments to government officials, and the construction of a villa for one official.

It may come down to the Royal Canadian Mounted Police to unravel the whole debacle. The RCMP raided Mag's Toronto headquarters in January, looking for evidence the firm made bribes to officials in the Republic of Congo. It continues to run its own probe into the company.

"There's a number of facets to this case they'll have to unravel," said Riyaz Dattu, a partner and international trade expert at Osler, Hoskin & Harcourt LLP.

Mag controls the Mageno potash project in the Congo. After failing to find a partner to help develop the project, the company agreed to be bought out by Evergreen in 2011. But instead of trying to buy 100 per cent of Mag's shares and take it private, Evergreen bought 76 per cent of the stock and maintained a minority stock listing in Canada. That kept the company under the jurisdiction of the RCMP and Canadian regulators.

Mag began its internal investigation in January, shortly after the RCMP raid. Since then, the company has failed to file financial results and the stock has been cease-traded. The Toronto Stock Exchange is reviewing the company for a possible de-listing.

On Tuesday, Mag revealed the findings of its investigation so far. While none of them has been proven in court, they suggest that both Evergreen and Mag's Congolese subsidiaries went to extreme lengths to curry favour with government officials.

Most significantly, there are allegations that five "black money" payments were made to Congolese officials ranging from US\$5,000 to US\$51,000. The idea was to reduce taxes and payments owed by one of Mag's subsidiaries, the company said.

Another startling allegation is that Mag or its subsidiaries built a villa for a government official. According to Mag, one of its managers involved in this matter said he received instructions directly from Evergreen.

There are also numerous allegations of more minor infractions. These include paying for trips to China and South Africa by Congolese officials, paying them substantial



daily stipends, buying them 4X4 vehicles, and buying them household furniture and ornamental stone lions that are “symbolic of the ties between the Congo and China.”

One central issue for the RCMP and other officials to unravel is Evergreen’s involvement. It is a Chinese company, and Chinese firms working in Africa are not held to the same ethical standard as Canadian ones.

“Not to stereotype, but some of the things [Mag] highlighted are probably not that unusual for a Chinese company when they’re dealing with government officials,” said one analyst familiar with MagIndustries.

Legal experts said that if the RCMP lays formal charges, it will be one of the most significant cases to come up under Canada’s Corruption of Foreign Public Officials Act, which was toughened last year.

The biggest cases to date involve SNC-Lavalin Inc., Niko Resources Ltd., and the Air India scandal. Niko was fined \$9.5 million for bribing a minister in Bangladesh, and Ottawa resident Nazir Karagar was sentenced to three years in prison for arranging bribes to Indian officials in order to win a contract from Air India. SNC is accused of paying at least \$48 million of bribes in Libya to win business in that country.

Mag also said in its statement that Evergreen wants to provide a “liquidity event” to the remaining minority shareholders. However, it doesn’t have the funds to do so and may not obtain them.

Congolese oil wealth squandered in Geneva

An investigation conducted by the Berne Declaration (BD) reveals how Philia, a Swiss trader, has been profiting at the expense of the Congolese state-owned oil refinery, Coraf. Coraf is managed by the President’s notoriously corrupt son, Denis Christel Sassou Nguesso. Largely unknown in the opaque world of trading, Philia was able to obtain an exclusive contract to export petroleum products with no public tender process and under highly questionable conditions. This case clearly illustrates the problems that plague the commodity sector, notably the risk of misappropriation of oil rents at the expense of the population of producer countries.

With access to exclusive documents, the BD analysed Philia’s business model and the clauses of a contract signed in 2013 with the Republic of the Congo’s



state-owned oil refinery. The contract and invoices in our possession leave no room for doubt that Philia generated significant profits from Coraf's generosity. Coraf provided the Geneva-based trader with free credit and, in doing so, enabled it to bypass the compliance procedures that trade finance banks typically conducted before allocating credit. By immediately re-selling its cargoes to third parties, including other Swiss traders, Philia acted as a pure intermediary between Coraf and the international markets. Philia therefore pocketed substantial profits for zero logistical effort. These perks granted at the Congolese population's expense enabled Philia, owned by one single shareholder, to competitively position itself in the downstream oil sector.

Coraf is a true financial abyss for the Congolese Treasury. For three years, the state has not received a single penny in exchange for the oil it allocates to the refinery. It is little coincidence that Coraf is managed by the President's son, an individual who has complete control over this ultra-corrupt state's oil sales. While the population live in poverty, Denis Christel Sassou Nguesso distinguishes himself by his elaborate expenditures, meticulously detailed in the "Biens mal acquis" inquiry currently underway in France. Ten years ago, a London tribunal further revealed how he flogged, for his own profit, large quantities of state crude sold-on to Glencore and Vitol.

The story of Philia reveals how oil contracts are manipulated in the dark corridors of power, all the while maintaining a veil of legality. Transparency in the payments and contracts concluded between Swiss companies and state entities is crucial in the fight against the misappropriation of oil rents by corrupt elites. Yet, the Swiss government nevertheless refuses to adopt such measures for the commodity trading sector, despite the significant positioning of Swiss traders in African markets. The BD further calls for the creation of a sector-specific surveillance authority – ROHMA – which would require companies to conduct mandatory due diligence on their supply chains and business partners.

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