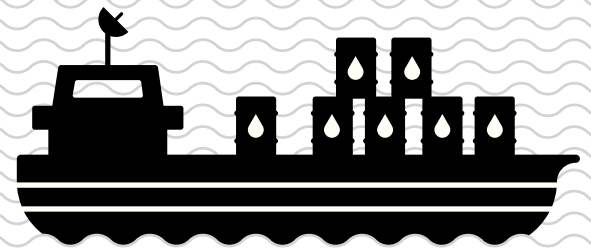


ANGOLA'S

# Oil

INDUSTRY  
OPERATIONS





By Maria Lya Ramos

The research presented in this report is drawn from a three-week trip to Angola in November 2011, which included brief visits to Cabinda and Soyo and conversations with journalists, residents of Cabinda and Soyo, academics, and representatives of oil corporations operating in Angola, the United States (US) government and non-governmental organisations (NGOs). Various requests to interview Angolan government officials were declined. Following the field visit, interviews were conducted with US government officials, academics, journalists, and various NGOs based in the US and United Kingdom (UK).

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## EXECUTIVE SUMMARY

**1.** The state-owned oil company, Sonangol, is at the centre of the oil industry in Angola. By law, multinationals that want to do business in Angola must associate with Sonangol in the form of a joint venture or Production Sharing Agreement (PSA). To win contracts, multinationals must pay signature bonuses that can run into billions of dollars – and are not publicly disclosed. Multinationals by law must also contract with Angolan companies for oil services. Evidence points to Angolan public officials’ beneficial ownership of, and shareholdings in, Angolan companies that have been awarded oil contracts – in violation of Angolan and international law.

**2.** Although environmental protection in Angola is enshrined in the Constitution, pollution control legislation and environmental standards are extremely deficient. Technical capacity at the ministerial level is weak and multinationals end up both developing the legislation and monitoring their own activities. Multinationals apply international or home country pollution control standards, but without any real enforcement mechanism by the Environment Ministry. In the absence of regulations, multinationals tout their voluntary practices under the banner of corporate social responsibility – but they often only invest in voluntary efforts for their own cost-effective ends.

**3.** Sonangol both administers and regulates the oil industry, which creates a clear conflict of interest. Sonangol performs functions that should be under the purview of the Ministry of Finance, or the Central Bank. Sonangol plays a monitoring role, bypassing the Ministries of Petroleum and Environment. Political institutions to provide checks and balances to potential malfeasance in the oil industry are weak – or non-existent. The judiciary is not politically independent. The legislative branch lacks necessary and pertinent information, and is only really accountable to the ruling MPLA party. Other institutions, like the Attorney General’s office and the Ombudsman, report directly to the president and do not make their reports public.

**4.** The principle of confidentiality enshrined in Angolan oil laws encourages corruption and creates a pathway for the diversion of oil revenues, which are legally shielded from the public domain. The Angolan government has taken some initiatives to increase transparency by publishing some oil revenue and production data, but this data is neither consistent, nor comprehensive, nor

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independently verified. Sonangol's PSA contracts also allow for some exemptions for disclosure. New United States (US) and European Union (EU) oil revenue transparency legislation will mandate US and EU registered companies to disclose detailed tax and royalty payments to the Angolan government.

**5.** Although institutions in Angola are weak, public anti-corruption legislation is potentially strong. Utilising existing legislation to lodge citizen's complaints about alleged public corruption and violation of the law – coupled with appropriate political and media monitoring of these complaints – would elevate the issue publicly and begin to promote the rule of law.

**6.** Sonangol's current structure is porous, providing potential opportunities for corruption and dubious financial transactions. Sonangol is the concessionaire, equity partner and operator in the industry. Sonangol's three distinct roles result in three budget transactions with the national budget:

- Assets that Sonangol generates from equities in oil concession shares are largely reinvested in Sonangol and its subsidiaries;
- As concessionaire, Sonangol signs the contracts and receives a share of the profits from the oil, which are then transferred to the treasury; and
- Sonangol is tasked with an array of quasi-fiscal activities that are funded from oil profits.

Sonangol is aggressively reinvesting in joint ventures and subsidiaries, such as China Sonangol, inside and outside Angola. Sonangol is a player in corporate social responsibility (CSR) through its management of social funds, which are linked to signature bonuses and production sharing agreements.

**7.** Multinational oil companies do not address governance or transparency issues in Angola. The companies' continued transactions with the government – without calling the terms of the transactions into question – have facilitated patronage problems, rent seeking and exacerbated the resource curse. Some exceptions exist, but these rare efforts are not industry wide. Companies tout their CSR projects, but these projects often lack community input, and

never address transparency and human rights issues. In relation to the mitigation of impacts, multinationals get almost a free pass. There have been some efforts to hold multinationals to account, particularly through home-country anti-corruption instruments and civil society advocacy, but these need to be ramped up.

**8.** In Angola, both the State and the multinational operators are guilty of environmental injustice. The government takes little care in enforcing existing laws to protect the public and environment, and prioritises economic growth over inclusive sustainable development. A depletion of fish stocks is the leading complaint about oil operations in the northern provinces, while coastal residents claim that there are regular oil spills from offshore facilities. Too many spills go unreported, and post-spill compensation procedures are ad hoc. There is a dearth of information on the impact of oil on communities, fisheries and public health. Without independent scientific testing, it is difficult to determine what is depleting fish stocks, damaging crops and affecting the health of local people.

**9.** Angolans are under-informed about the massive amount of money generated by the extractive industries and about the massive percentage of these revenues that are illicitly siphoned off. Few Angolans make the link between poverty, oil revenue distribution and high-level corruption. The oil producing provinces of Cabinda and Zaire are not receiving 10 percent of the oil produced in the provinces as mandated by law.

**10.** Avoiding Dutch Disease would entail constraining the political patronage, increasing public spending, and growing the non-oil economy. Public spending from oil revenues is concentrated on large infrastructure projects, with an opaque procurement process. Little funding is going toward social spending and households. The government is doing little to grow the non-oil sector, and agriculture and small and medium enterprises in particular. The Fundo Soberano Angolano (FSA) – Angola's sovereign wealth fund – is no guarantee against corruption, and could just perpetuate it. Sonangol already operates like a sovereign wealth fund by reinvesting oil revenues in domestic and international ventures.

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## BACKGROUND

Oil was first discovered in Angola in 1955 in the onshore Kwanza basin near Luanda. However, the oil did not take off until the 1960s when Cabinda Gulf Oil, now Chevron, discovered the massive reserves off the coast of the northern province of Cabinda. By 1973, oil had overtaken coffee as Angola's principal export. In the late 1970s, the government initiated a programme to attract foreign investment. The Angolan coast, excluding Cabinda, was divided into several exploration blocks, which were leased to foreign oil companies under production-sharing agreements. Production increased steadily throughout the 1980s. In the early 1990s, international oil companies reported major discoveries in the deeper waters further off the coast. In 2007, Angola officially became the 12th member of OPEC.

Today, Angola is the second largest producer of crude oil in sub-Saharan Africa, behind Nigeria. The country produces about 1.6 million barrels per day, and plans to increase this output to 2 million barrels a day by 2014.<sup>1</sup> Angola's crude oil is primarily destined for export. China is the biggest importer of Angola's crude oil – buying around 43 percent of the country's oil exports. The US is the second largest importer. Angola consumes about 74,000 barrels a day. The country boasts about 9.5 billion barrels in proven crude oil reserves.

Angola produces light sweet crude oil containing low volumes of sulphur. It is ideal for producing derivatives like gasoline, kerosene and high quality diesel. Angola's oil industry is dominated by the upstream sector – exploration and production of crude oil and natural gas. The downstream sector – refining and distribution of products derived from crude oil – remains underdeveloped. The one oil refinery in Luanda is currently unable to meet domestic demand so a refinery in Lobito is planned, which will be capable of refining 200,000 barrels per day.

Areas to be explored for oil are normally delimited into blocks averaging 5,000 km<sup>2</sup> and each oil concession is generally granted for 20 years. There are 44 oil blocks in Angola, both onshore and offshore. Within each block, there are a number of oil fields in various stages of exploration and production. Of the 34 blocks, 11 are currently in production mode and 33 in exploration mode. The offshore blocks are divided into three bands: shallow water blocks; deepwater blocks; and ultra-deepwater blocks.<sup>2</sup> Angola's most lucrative block is block 0, which is operated by Chevron.

Angola may see a surge of oil production in the coming years. In December 2011, the government granted foreign oil companies 11 new oil licenses in the Kwanza Basin – Angola's deep-sea, pre-salt region. There are high expectations that the region holds major deposits of light oil and gas.

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## LEGAL FRAMEWORK OF THE ANGOLAN OIL INDUSTRY

In Angola, the two most important laws relating to the oil and gas sector are the 2004 Petroleum Activities Law<sup>3</sup> and the 2004 Petroleum Taxation Law. The Activities Law establishes that all oil mineral rights belong to the state and that the state oil company Sonangol is the sole concessionaire of rights to all exploration and production activities. Companies – both foreign and domestic – that want to operate in Angola must, by law, enter into association with Sonangol, which can also participate directly in the oil block, either as an operator (the company responsible for carrying out the specific exploration, development or production activity) or as a partner (one of the companies responsible for funding the operation and entitled to receive a share of the profits).

The main contractual agreements used by Sonangol in its associations with other companies are joint ventures and Production Sharing Agreements (PSA). Joint ventures include the older Cabinda block 0, as well as the onshore blocks FS-FST. Under joint ventures, the government cedes ownership of the oil to the companies in return for royalty payments and income taxes. In PSAs, the ownership of the oil remains with the government, while the companies function as contractors to Sonangol. The majority of oil contracts in Angola are covered by PSAs. For the new pre-salt, deep-sea oil blocks, Sonangol has entered into risk shared service agreements. This type of agreement is new in Angola.

The Petroleum Taxation Law lays out the cost recovery regime and profit share calculation for PSAs and corresponding Concession Decrees. Under a PSA, a foreign oil company will make an initial investment to explore or produce oil in a particular block, and can deduct a share of the oil that is produced and sell it to cover their investment costs. This is known as ‘cost oil’. This ‘cost oil’ is deducted from the total crude oil that is produced in the oil block. The oil that remains is then split among the companies and the government according to the terms of the contract. This remaining oil is dubbed ‘profit oil’. Some of Sonangol’s share of the investment costs can be paid upfront by other oil companies, which can then recoup their money from Sonangol’s share of ‘cost oil’. The government’s share of ‘profit oil’ is calculated according to the terms of each individual contract and according to the market price of oil and rate of return achieved each quarter – meaning that no two oil blocks will have the same cost and revenue scheme. The market value data to determine ‘profit oil’ is analysed quarterly by the Ministry of Petroleum and the Ministry of Finance. Once ‘profit oil’ is calculated, Sonangol can sell the oil. Sonangol calculates its administrative costs and deducts them from the revenues earned from these sales. Sonangol is allowed to deduct 10 percent of the revenue.

Foreign oil companies prefer PSAs because they guarantee rights to the oil reserves, offer an opportunity to earn massive profits, and ensure predictable tax and regulation regimes.<sup>4</sup> The government prefers PSAs because they guarantee the government revenue even in the event that oil extraction is not profitable for the companies. The Petroleum Minister, Jose Botelho Vasconcelos, explained it further, “We are a Third World economy, and have difficulty obtaining capital. We therefore prefer production sharing agreements because government investment is only required once a discovery has been declared economically viable.”<sup>5</sup>

Risk Share Service Agreements are new to Angola and cover the 11 pre-salt blocks in the deep-sea. Under this type of contract, a company will finance oil exploration activities. If no oil is found, the company does not get to recover the costs of its investment. This is the risk incurred. But if oil is found, then the company can extract the oil and will be paid out either in cash, oil or through a discount in the purchase of oil, as the oil companies are not entitled to the oil extracted from the particular block. Just like the PSA, the costs and revenues are calculated on a block-by-block basis, according to each particular contract.

To operate an oil block, an oil company also needs a Concession Decree granted by the Angolan government and published in the Official Gazette. Whereas the various other agreements stipulate the financial terms of any oil activity, the Concession Decree primarily outlines the operational terms. These include: approval of work plans, geophysical reports, geological reports, cutting samples<sup>6</sup>, and issuance of monthly reports to the Ministry of Petroleum.<sup>7</sup> The Concession Decree also regulates the currency exchange and how to make payments.

Beyond the various contracts and cost and revenue terms, oil companies also pay taxes on their earnings. The oil taxation regime in Angola is complicated and will be explained in



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Chapter 5, which will also discuss additional revenue flows from oil companies to the government, including signing bonuses. For the most part, all these revenue flows are paid directly to Sonangol and should, in theory, be tracked by the Ministries of Petroleum and Finance. However, as will be seen later, these figures are not always consistent or reliable.

The Petroleum Activities Law also mandates that oil companies must bid for a concession contract through a public bidding or open tender process. Alternatively, Sonangol, as concessionaire, can decide to directly award the contract to a company, which will be published in the Official Gazette, but only if it receives no bids following an open tender or if it considers the bids unsatisfactory.<sup>8</sup> However, these tenders are often not public. For example, a total of 13 companies participated in the most recent tender for Angola's pre-salt, deep-water blocks, but it was never officially announced. It should be noted this was Angola's first offshore bidding round since 2007.

In an effort to build national capacity in the oil sector, the Petroleum Activities Law<sup>9</sup> stipulates that the government should promote and give preferential treatment to Angolan-owned companies for the contracting of oil industry services by adopting '...measures to guarantee, promote and encourage investment in the petroleum sector by companies held by Angolan citizens.' Meanwhile, new tax incentives signed into law by the President give even more preferential treatment to Angolan-held companies by offering them tax breaks and other exemptions.

For the Angolan government to mandate foreign oil companies to partner with Angolan companies is neither unethical nor even irregular in a global business context. The problem lies in which companies are selected and how. There is increasing evidence that to comply with host country laws, foreign companies are paying massive fees to public officials and other Angolan elites to contract with 'front' companies that all too often lack the technical capacity and financial resources to support the oil operation. The ownership and shareholding structure is often opaque, and the company's actual capacity to develop the license is often inadequate so the work is done by the foreign oil company.

A series of recent investigations by Angolan and international organisations, and US government agencies have documented public officials' ownership of, and shareholdings in, Angolan companies that have been awarded oil contracts. For example, in February 2010, the small Houston-based Cobalt Energy International formed a consortium with two private Angolan

companies, Nazaki Oil & Gas and Alper Oil. The companies participate in oil blocks 21/09 and 9/09. Cobalt paid for these companies' signature bonuses and expenditures in relation to the initial work.<sup>10</sup> In a US regulatory filing in late February 2012, Cobalt stated that it was under a formal probe, started in November, by the US Securities and Exchange Commission (SEC) and the US Department of Justice following allegations that 'one of its junior partners in two of the blocks, Nazaki Oil & Gas, is linked to senior Angolan officials'.<sup>11</sup> Nazaki Oil & Gas is owned by the former Chairman and CEO of Sonangol, and by the Minister of State and his top lieutenant.<sup>12</sup>

It is a clear conflict of interest for the former Sonangol Chairman to sign the agreement with Cobalt in his position as chairman, while also partnering with the company as a private businessman. It is also in violation of Angolan corruption laws.

As for Cobalt, the company is trying to dodge any potential violation of home country laws – namely the US Foreign Corrupt Practices Act – by pre-emptively disclosing its partnership with Nazaki Oil & Gas and Alper Oil to the SEC. In its filings, Cobalt claimed that it was pressured into the partnership by the Angolan government, and was ignorant about the local companies and their shareholders.

There have been similar, albeit uncorroborated, reports that the shareholders of Somoil include a former Petroleum Minister and Industry Minister, the former Chairman of Sonangol and other high-ranking public officials. Somoil is a shareholder in block 2/85, which is operated by Sonangol and includes Petrobras and Chevron as shareholders. Two other private Angolan companies, Poliedro and Kotoil, also participate in block 2/85. Similar uncorroborated reports list the Minister of Territorial Administration and the administrator of the Institute for State Business as Poliedro shareholders. Meanwhile, Kotoil shareholders include two Members of Parliament from the ruling MPLA. Yet another uncorroborated report lists a number of former Sonangol directors and a former Sonangol Chairman as shareholders of Initial Oil & Gas, which holds shares in block 6/06 that is operated by Petrobras.

In agreeing to pay huge fees that go straight into the pockets of Angolan elites and in agreeing to be partners in these concessions, foreign companies are supporting and perpetuating rent-seeking and high-level corruption. For foreign oil companies operating in Angola, the prevailing wisdom is that things are easier with the right partners, and given the profits they stand to make, they are willing to look the other way.

## ENVIRONMENTAL LAWS

Environmental protection in Angola is enshrined in Article 39 of the Constitution, which states that, 'Everyone has the right to live in a healthy and non-polluted environment...' and that the '...State shall adopt the necessary measures to protect the environment and the rational exploitation of natural resources within a sustainable development framework'. The Constitution also establishes the important 'polluter pays' principle – reinforced in a recent Presidential Decree, establishing that those who are responsible for producing pollution are also responsible for paying for remediation of the environment.

In Angola, the Ministry of Environment is responsible for the protection of the environment, including the development and implementation of environmental policies, the most important of which is the 1998 General Environmental Law.<sup>13</sup> This law provides the framework for all environmental legislation and regulations in Angola – along with key international sustainable development declarations – and establishes principles for the prevention and mitigation of pollution.<sup>14</sup>

However, in relation to environmental protection from oil activities, responsibility rests with the Ministry of Petroleum (Minpet), which regulates oil and gas exploration and production activities in collaboration with Sonangol. Minpet is mandated to monitor and inspect oil operations and can impose infractions and penalties for pollution and other illegal activities, although the lines are often blurred among the Ministries of Petroleum and Environment and Sonangol, and even oil industry executives are sometimes confused about the division of roles.<sup>15</sup> Minpet's authority to protect the environment rests mainly within the aforementioned 2004 Petroleum Activities Law.

### ENVIRONMENTAL IMPACT ASSESSMENT (EIA) AND ENVIRONMENTAL LICENSE

Prior to the start of any oil activities, companies need to conduct a study of all possible environmental impacts – called an Environmental Impact Assessment (EIA).<sup>16</sup> The Ministry of Environment reviews and provides comments on the EIA and advises the Ministry of Petroleum on the acceptability of proposed projects. The Ministry of Petroleum gives the final approval to the EIA, and then issues an Environmental License.<sup>17</sup> EIA legislation is the most detailed and specific of all environmental legislation in Angola. However, technical capacity is lacking and there is seldom any follow-up in relation to the implementation and monitoring of EIAs. As a result, it is rare that mitigation

measures are taken or penalties imposed on projects that do not comply with EIA rules and recommendations.<sup>18</sup> The law also mandates that there is a public consultation process on the EIA.<sup>19</sup> However, reading dense, technical reports is beyond the capacity of most Angolans, who have even less ability to provide comments.

### ENVIRONMENTAL MANAGEMENT SYSTEMS (EMS)

EMS refers to the management of the oil company's environmental programmes in a comprehensive, systematic and documented manner. Apart from broad statements about the government's duty to protect the environment, there are no legal provisions imposing specific EMS in Angola. Instead, foreign oil companies follow their own standards, in accordance with international standards, such as ISO 14001. All the oil majors operating in Angola have an EMS.

### MONITORING AND COMPLIANCE

Angolan laws, including both the Environmental Framework Law (Article 18) and the Petroleum Activities Law (Article 24), require environmental audits, but mention nothing about how often these audits should be conducted. Article 76 of the Petroleum Law does require companies to submit monitoring reports to the Ministry of Petroleum, but the content and frequency of these is spelled out in the concession license, which is not a public document, and there is nothing in the legislation providing for public disclosure of the reports.

### EMISSIONS

There is no legislation in Angola regulating greenhouse gas emissions. The government ratified the UNFCCC, but not the Kyoto Protocol. Article 73 of the Petroleum Activities Law prohibits gas flaring,<sup>20</sup> but leaves it up to the discretion of the Ministry of Petroleum to make exceptions and impose fines. With the development of Angola's liquid natural gas (LNG) plant, the government aims to reduce emissions, as oil companies plan to gather associated gas from oil blocks for export and domestic consumption.

### WASTE

Oil production generates tremendous amounts of hazardous waste, such as produced water (the underground fluid that is brought up with the extracted oil and gas), metal cuttings and drilling fluids. However, Angolan legislation on waste control and standards is weak. There are two waste related

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decrees administered by the Ministry of Petroleum: Petroleum Activities Waste Management, Removal and Disposal, Decree No. 8/05 and Management of Operational Discharge During Petroleum Activities, Decree No. 12/05 – but these merely mandate that oil companies have a plan in place to deal with waste. Presidential Decree 194/11, which regulates responsibility for environmental damage, also thinly references “quality standards in force in Angola are those set out by the International Organization for Standardization...” Assuming this refers to ISO 14000 on Environmental Management – this is would just revert to what the oil majors already utilise as standards. The problem, then, is that there is no adequate monitoring of hazardous waste disposal by government, or public information about the amount of hazardous waste produced. Therefore, responsibility for monitoring and reporting falls on the oil companies. For example, in its 2010 Angola Sustainability Report, BP states that it disposed of 426 tons of non-hazardous waste, but makes no mention of the disposal of hazardous waste.

#### PENALTIES, LIABILITY AND ACCESS TO JUSTICE

The law establishes the important ‘polluter pays’ principle, regulation of which rests in Presidential Decree 194/11<sup>21</sup>. The law mandates that operators immediately inform the government of damages; sets five years as limit for reparation and prevention measures; and grants the right of affected person(s) to seek government intervention, as well as the courts. The law does not exempt companies from civil liability,<sup>22</sup> and citizens can seek recourse through the Public Prosecutor for environmental damages.<sup>23</sup> While companies are mandated to have liability insurance<sup>24</sup>, the amount is not specified (this issue has been of major concern in the US following the BP Gulf of Mexico disaster).<sup>25</sup> If companies are found to have breached legislative provisions in general, the Ministry of Petroleum will impose a fine, the amount of which is regulated by decree, with 60 percent going to the State and 40 percent to the Ministry of Petroleum.<sup>26</sup>

#### RIGHT TO KNOW

Angolan citizens’ right to access environmental information is protected in Article 21 of the Environmental Framework Act. Although important, this provision has not been utilised in Angola.

#### EMERGENCY PREPAREDNESS

To deal with the potential for an oil disaster, the government approved the National Marine Oil Spill Contingency Plan in 2008. The plan details procedures in the event of an oil

spill, establishes communication structures and a chain of command, and identifies high-risk ecosystems. Companies working in Angola are also required to have their own procedures and preparations in the event of a spill from their facilities. However, the Angolan government has no specialised equipment. So if a major spill occurs, the oil majors (BP, Chevron, ENI, ExxonMobil, and Total) have developed a mutual assistance agreement to allow maximum use of each other’s resources. As a result of the BP Gulf of Mexico oil spill, the Ministry of Petroleum has been evaluating new procedures. Still, Angolan officials have publicly stated their concern that the four principal petrol-producing zones do not have local contingency plans.<sup>27</sup>

The Gulf of Mexico spill also prompted the Ministry of Petroleum to establish an Incident Management Team (IMT) that responds to emergencies. Various oil companies in Angola cooperate in the IMT, and IMT equipment is stored at the Sonil base in Luanda. In any emergency response, Sonangol, which leads from a legal point of view, has to be notified and must approve any clean-up or other operation by the IMT. The technical operation and implementation is in the hands of the international oil companies through the IMT.

Sonangol granted 11 new oil licenses in December 2010. The licensing round was the first to focus on Angola’s pre-salt region. It is believed the area is analogous to pre-salt Brazil, mirroring Brazilian deposits of high-quality light crude, where oil is located below layers of salt under the seabed. In Angola, the pre-salt layer is between 2,000 and 5,000 meters below sea level. Ultra-deepwater drilling seriously increases the risk of a potentially catastrophic spill given the increased complexity of the operations – exemplified by the failure of the blowout preventer on the BP oilrig in the Gulf of Mexico and the subsequent environmental disaster. Risk assessments have not sufficiently accounted for water depth or spill volume and the Angolan government, by its own admission, lacks the technical expertise and resources to deal with such an event.

Overall, pollution control legislation and environmental standards in Angola are weak. The majority of Angolan legislation serves to establish the ‘principle’ of environmental protection, with few areas where actual quantified standards have been developed. In the meantime, foreign oil companies apply pollution control standards established by the World Bank, the World Health Organization or control standards from their home countries, but with no mechanism for real enforcement by the various ministries. In the absence of regulations, foreign oil companies tout their voluntary practices under the banner of corporate social responsibility, often only investing in voluntary efforts for their cost-effective ends.

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*Information on the oil industry tends to be concentrated within the presidency, Sonangol and key ministries – and little information is provided to the legislature in relation to contracts and other oil-related policies and practices.*

## ADMINISTRATIVE CAPACITY TO MANAGE THE OIL INDUSTRY

Political institutions provide the checks and balances that underpin democracy. Without checks and balances, corruption goes unrestrained. Therefore, corruption can be said to be a symptom of weak institutions. Economically, corruption impedes development since funds are not necessarily invested to promote development of the country as a whole, extends politicians' control over the private sector and blocks competition.<sup>28</sup> In Angola, political institutions that provide checks and balances to potential malfeasance in the oil industry are weak – or non-existent.

Within the legislative branch, Angolan law does not grant the National Assembly the power to investigate state-owned companies, like Sonangol. The state oil company is accountable to the president, and not the National Assembly. Budgetary resources for Assembly members are low. Legislative staff are poorly trained and thinly stretched. The perception of the sector's complexity can serve as a psychological barrier, in as much as legislators do not take advantage of simplified information that is available in the public domain.<sup>29</sup> As a matter of course, legislators receive final audited accounts more than two years after the end of the fiscal year, and the Assembly itself does not regularly receive financial information about the oil sector. In November 2005, for example, Angola's National Bank, for the first time, issued a financial report on the 2003-2004 fiscal year to the National Assembly. Information on the oil industry tends to be concentrated within the presidency, Sonangol and key ministries – and little information is provided to the legislature in relation to contracts and other oil-related policies and practices. On the few occasions that the Assembly has tried to exercise its legislative oversight, the Executive has not responded, or the initiative has been quashed.

In addition, Angolan politics are extremely partisan and legislators often prioritise party loyalty ahead of the public interest. Furthermore,

legislators are not directly elected but are appointed through party lists so they do not represent specific constituencies. As a result, they face fewer demands from their 'constituents'. Legislators' reluctance to challenge ministerial counterparts from the same party also limits legislative oversight.

As for the judicial branch, the president appoints all judges on the Constitutional Court, the Supreme Court and the Court of Audits. The prosecutor general also reports to the president. So the judicial branch is institutionally unable to provide the necessary checks and balances.

Institutional capacity at the ministerial level is also weak. Angola's minimalist environmental regulations are partly deliberate, as a means of attracting oil corporations, and partly the result of a dearth of technical capacity within the Ministry of Environment.<sup>30</sup> There is simply not enough local technical knowledge and resources. As a result, oil companies have played a leading role in advising both the Ministries of Petroleum and Environment on the formulation of regulations – something to which even oil company officials will admit.<sup>31</sup> Enforcement is also weak and the Ministry of Environment lacks the political power and resources to ensure compliance. In the event of an oil spill, for example, the Ministry of Environment must rely on Sonangol's helicopters, SonAir, to take staff to the

offshore spill site. Meanwhile, water and fish samples are collected by the oil companies themselves and taken to foreign laboratories of their choosing since independent laboratories capable of testing them do not exist in Angola.

Regulatory oversight by the Ministry of Petroleum is also weak when compared to the political power exerted by Sonangol. Every oil block has a chairman from Sonangol, who may communicate further with the Ministry of Petroleum.<sup>32</sup> A report commissioned by Norad, the Norwegian development agency, is illuminating. It states, 'The institutional cooperation between NPD (the Norwegian Petroleum Directorate) and Minpet was started under the assumption that Angola would see a legal institutional change, and that Minpet, or a separate body under Minpet, would assume regulatory functions similar to those of NPD. This development did not take place, as Sonangol was unwilling to reduce its power. It appears evident in retrospect that the anticipated reduced role of Sonangol and increased role of Minpet was not anchored in political reality'.<sup>33</sup>

On fiscal matters, the Ministry of Finance has limited access to Sonangol's accounts. A 2002 IMF-mandated audit of the oil sector by the auditing firm KPMG revealed that the Central Bank was 'unaware of the values of export sales by Sonangol and the foreign

currency generated and the related effect on Angola's balance of payments'.<sup>34</sup> The KPMG audit found that revenues routinely bypassed the Ministry of Finance and the central bank and went directly to Sonangol and the presidency.

Structurally, Sonangol performs functions that should be under the purview of the Ministry of Finance or the central bank. A large share of income and expenditure is executed outside the ordinary budgetary framework and a parallel state finance system exists, which makes it very difficult to track monetary transactions between the various institutions representing the state – such as the treasury, the central bank, Sonangol and the Banco Africano de Investimentos (a private Angolan bank whose largest shareholder is Sonangol). From 1997-2003, unaccounted funds amounted to US\$4.22 billion, while from 2007-2010, unaccounted funds amounted to a massive US\$32 billion. A World Bank report notes that this 'multifarious work program creates conflicts of interest and characterizes a complex relationship between Sonangol and the government that weakens the formal budgetary processes and creates uncertainty as regards the actual fiscal stance of the state'.<sup>35</sup>

When it comes to management of the oil industry, Sonangol is at the centre. All revenues the government generates from oil production in one way or another go through Sonangol. As concessionaire, Sonangol signs contracts with lease holders and receives a share of profit oil, markets that oil and transfers the earnings to the Treasury. The company holds equity shares in oil fields, which generate income that is then largely reinvested in subsidiaries, joint ventures and other businesses Sonangol oversees. The company also manages other 'quasi-fiscal' activities paid from profit oil earnings due to the Treasury.<sup>36</sup>

Within the international oil sector, Sonangol is regarded as competent, professional and well run. According to a report from the UK's Department for International Development (DFID), 'Even during Angola's civil war, Sonangol repaid its oil-backed loans and stuck to its contracts. It has also negotiated some of the most favourable terms of any African country for its contracts with oil companies. Sonangol employees are the most talented professionals in the country'.<sup>37</sup>

Overall, efforts to strengthen Angola's administrative capacity to manage the oil industry have been limited. Inside the country, institutions that should provide critical checks and balances, particularly on Sonangol, are weak. Meanwhile, the governments of industrialised countries have been unwilling to pressure the Angolan government over issues of governance and redistribution, and have chosen instead to prioritise their own national interests and protect their own business interests and national oil supply.

The Norwegian government, in particular, has been providing technical assistance to strengthen the role of the Ministry of Petroleum since 1987; today that assistance is under the Oil for Development banner. The aim of their most recent 2008-2010 funding tranche of US\$2.7 million to the Ministry of Petroleum was to 'promote improved management of national petroleum resources as one of the tools for sustainable economic and social development in Angola. This includes improving the capability to exercise regulatory control and to develop policies and strategies for ensuring better administration of the Angolan petroleum resources'.<sup>38</sup> But Norway's Oil for Development programme adopts a state-centric approach that works within the political economy structures in Angola; it does not address these as the source of the problem.

## FISCAL REGIME, TRANSPARENCY AND ACCOUNTABILITY

### FISCAL REGIME

The oil tax regime is the government's conduit for collecting revenues from oil production. The 2004 Petroleum Tax Law was Angola's first law on taxation of the oil sector. The law harmonises the many disparate fiscal regimes that previously governed oil concessions. In a global sense, Angola's taxation regime is relatively attractive, particularly in comparison to other African oil-producing countries. For

example, whereas Nigeria takes in around 80 percent of total oil production and both Gabon and Cameroon take over 70 percent, Angola takes in between 50 and 65.75 percent. But while the taxes may be lower, Angola's tax regime is complex. Below is a breakdown of the tax regime and the government's revenue stream based on the type of contract agreement and company.

OIL COMPANIES WITH PRODUCTION SHARING AGREEMENTS (COVERS MOST OIL BLOCKS)	OIL COMPANIES WITH JOINT VENTURES (COVERS THE CABINDA AND FS-FST ONSHORE BLOCKS)	SONANGOL
Petroleum Income Tax: Set at 50% (on the company's share of the 'profit oil'). Paid to Sonangol, which should then revert it to the Treasury Account.	Petroleum Income Tax: Set at 65.75% (on revenues minus expenses). Paid to Sonangol, which should then revert it to the Treasury Account.	Concessionary receipts/revenues: The State's share of 'profit oil'. Sonangol sells this oil in the name of the government and should revert sales to the Treasury Account on a quarterly basis. This is the government's most important revenue stream.
Price Cap Excess Fee: This fee is collected when the market price of oil (as established by the Ministries of Petroleum and Finance) rises above a certain cap established in the PSA. The excess is multiplied by the number of barrels of profit oil the company/companies have netted each month. Paid to Sonangol, which should then revert it to the Treasury Account.	Production Tax/Royalty: Calculated as total oil produced minus oil used in operations. Can be paid out in cash or in oil. If paid in oil, Sonangol is responsible for selling the oil and delivering the receipts to the government. Set at 20% (with a possible reduction to 10%). Paid to Sonangol, which should then revert it to the Treasury Account.	Dividends: Paid by Sonangol EP to the State for its shares in Sonangol.
	Petroleum Transaction Tax: Payable on the exploration, production, transportation and storage of oil. Set at 70%. Paid to Sonangol, which should revert it to the Treasury Account.	Sonangol may retain up to 10% of the revenues to cover expenses related to the control and supervision of companies. (This includes all revenues except bonuses and possibly the production tax, as the 2004 Taxation Law does not specify).
Surface Fees: This is set at US\$300 per square kilometre of the area being developed. Paid out to the relevant tax office.	Surface Fees: This is set at US \$300 per square kilometre per year of the area being developed. Paid to Sonangol. Paid out to the relevant tax office.	
Bonuses: Signature bonuses are paid on the award of a contract to explore and produce oil. These can run into billions of US dollars and are one-off payments. Other bonuses include exploration, first oil and annual production bonuses. These are smaller than signature bonuses and can run into millions of US dollars. Paid to Sonangol, which should then revert them to the Treasury Account.	Bonuses: Signature bonuses are paid on the award of a contract to explore and produce oil. These can run into billions of US dollars and are one-off payments. Other bonuses include exploration, first oil and annual production bonuses. These are smaller than signature bonuses and can run into millions of US dollars. Paid to Sonangol, which should then revert them to the Treasury Account.	
Training of Angolan Personnel: Specific amount stipulated by decree. Paid into the National Treasury.	Training of Angolan Personnel: Specific amount stipulated by decree. Paid into the National Treasury.	

The Ministry of Finance posted annual oil revenues of US\$37.99 billion for 2011. The bulk of this – US\$25.26 billion – was from Sonangol. Of the remainder, US\$6.68 billion came from the petroleum income tax, US\$2.56 billion from the petroleum production tax, and US\$3.49 billion from the petroleum transition tax.<sup>39</sup>

Companies also make direct tax payments to provincial governments – set at 10 percent of the oil tax income stemming from oil produced in the provinces of Cabinda and Zaire.<sup>40</sup> The idea is that the tax revenue will help offset some of the costs of hosting facilities in the province.

Previously, oil companies operating in Angola were not required to use Angolan banks in lieu of foreign banks to make their financial transactions. Legislation, enacted early this year now<sup>41</sup> requires oil companies (starting May 2013) to use local banks to make all payments related to their oil operations – including tax payments, payment of bills owed to local providers, and even payments to foreign suppliers.

It should be noted that the tax rate for the oil industry is the highest for any industry in Angola. As a basis of comparison, the standard rate of Angola corporate tax is 35 percent. Mining is taxed at a slightly higher rate of 40 percent,<sup>42</sup> while agriculture and forestry enjoy a reduced corporate tax rate of 20 percent.<sup>43</sup>

Until recently, the tax rate for the oil industry applied across the board, but the recent Presidential Legislative Decree 3/12 favours the national oil industry. The new tax regime reduces the oil income tax rate for Angolan oil companies whose capital is held entirely by Angolan individuals from 50 percent for companies engaged in PSAs with Sonangol to 35 percent, and from 65.75

percent for companies in joint ventures to 35 percent – the standard corporate tax rate. The law also grants Angolan companies exemptions from paying signing bonuses and contributions to social programmes.

## TRANSPARENCY

Transparency is a fundamental and necessary, but not sufficient, condition for successful management of the oil industry, and for the efficient and accountable taxation of oil industry rents. For Angolan citizens, journalists, members of the National Assembly and watchdog groups to hold the Angolan government to account for the responsible use of oil rents, there must be public information about the sector. But in Angola, there is little transparency regarding the public management of oil wealth. The country ranks 168th out of 183 countries in Transparency International's 2011 Corruption Perception Index. The oil industry is the backbone of the Angolan economy, accounting for around 80 percent of public revenues, yet the government has kept oil accounts, revenues, expenditures and contracting procedures concealed. In particular, the relationship between the government and Sonangol is secretive and complex. Most oil revenues flow through Sonangol, which feeds a vast patronage system with these revenues. This patronage system, overseen by the President, has kept the ruling MPLA party and the government in check by rewarding elite public officials, family members and the military.

However, in response to increasing public scrutiny, the government has taken some steps since 2004 to increase transparency by publishing data on the production and export of oil, as well as taxes and royalties and other revenues to the government. There is undoubtedly more information disclosed now than

ever before. The Ministry of Finance publishes block-by-block oil prices, taxes, royalties and export data, as well as the revenues of Sonangol on a monthly basis on its website. Likewise, the Ministry of Petroleum publishes data on oil production and export on a monthly basis on its website. Sonangol also publishes audited annual financial statements on its website. But while there is more information publicly available, this has not necessarily led to increased transparency. As OSISA's own reporting with Global Witness<sup>44</sup> has concluded, the information published by the Ministries of Petroleum and Finance and Sonangol is not consistent, comprehensive, reliable or independently verified. Without accurate information, Angolan citizens cannot hold the government to account for responsible usage of public funds. The report flagged some of the biggest gaps in the data, including:

- The sum totals of concessionary payments reported by the Ministry of Finance and Sonangol are similar, but when broken down by block, they disagree in a way that cannot be explained from the reports themselves;
- There are substantial discrepancies between the receipts reported for petroleum income tax paid to the Angolan government by the Ministries of Finance and Petroleum. Both report higher receipts of income tax from Sonangol than Sonangol reports in its own accounts;
- There is a large discrepancy between the petroleum transaction tax figures from the Ministries of Petroleum and Finance that cannot be explained;
- Sonangol records large dividend payments that do not appear to be accounted for in other government reports; and
- Signature and other bonuses paid by oil companies to the government appear to be poorly reported when compared to what has been reported in the media and in government accounts.<sup>45</sup>



Picking up where that earlier report left off, a partial review of currently published data records similar discrepancies. For example, concessionary revenues for the year 2010 (the latest annual figures published by Sonangol) reported by Sonangol and the Ministry of Finance vary on a block-by-block basis and in total.

OIL BLOCK	CONCESSIONARY REVENUES MINISTRY OF FINANCE (IN DOLLARS AND KWANZAS)	CONCESSIONARY REVENUES SONANGOL (IN DOLLARS* AND KWANZAS)
Block 2-05	56,796,054 USD 5,090,119,182 AKZ	52,956,039 USD 4,918,239,235 AKZ
Block 2-85	45,527,183 USD 4,133,349,277 AKZ	45,445,054 USD 4,220,664,034 AKZ
Block 3-05	433,586,420 USD 37,122,517,786 AKZ	444,904,870 USD 41,320,094,957 AKZ
Block 3-85	172,726,591 USD 13,051,860,788 AKZ	157,313,340 USD 14,610,319,214 AKZ
Block 3-91	125,821,053 USD 9,424,819,544 AKZ	118,501,246 USD 11,005,684,724 AKZ
Block 4	18,039,260 USD 1,652,375,616 AKZ	21,954,612 USD 2,039,012,642 AKZ
Block 14	2,115,075,178 USD 182,010,766,467 AKZ	2,320,033,670 USD 215,470,807,080 AKZ
Block 15	7,770,321,179 USD 655,312,869,902 AKZ	7,573,691,091 USD 703,398,986,441 AKZ
Block 17	5,223,258,488 USD 426,374,560,096 AKZ	5,198,820,822 USD 482,835,285,097 AKZ
Block 18	429,178,728 USD 33,639,181,455 AKZ	367,314,441 USD 34,113,961,437 AKZ
<b>TOTAL</b>	<b>16,390,330,114 USD</b> <b>1,367,812,420,115 AKZ</b>	<b>16,300,935,190 USD</b> <b>1,513,933,054,862 AKZ</b>

Likewise, total oil exports reported by the Ministry of Finance and Ministry of Petroleum vary.

	MINISTRY OF FINANCE	MINISTRY OF PETROLEUM
Total oil exports (barrels)	52,324,030	50,889,569

The discrepancies in the data can amount to massive sums. In 2002, as a pre-condition of the International Monetary Fund (IMF) for eventual lending, the international accounting firm KPMG initiated a monitoring system and an assessment of Angola's oil revenues. This Oil Diagnostic highlighted major mismanagement of oil revenues, and raised a series of serious issues, including US\$4.2 billion of unaccounted oil revenues for the years 1997-2002. Eventually, in 2009, the IMF agreed to a stand-by agreement and granted Angola a loan of US\$1.4 billion to stabilise its balance of payments after a drop in the price of oil and improve transparency in the government's accounting process. More recently, in December 2011, the IMF issued a report that highlighted an unexplained US\$32 billion discrepancy in the Angolan government's 2007-2010 fiscal accounts linked to Sonangol's quasi-fiscal activities. This figure amounts to a quarter of Angola's gross domestic product.

These quasi-fiscal activities are financed out of oil revenues, but are not recorded in the national budget and thus lie completely outside the official process. These activities include fuel subsidies and the servicing of the national debt. Responding to the IMF, the Angolan government stated it would release Sonangol from this function in the future.

Beyond oil revenues, there is even less transparency around expenditures and credit lines for investment projects. The public procurement process is lax and the National Assembly has little oversight over major investments. For example, the government is investing billions of dollars in infrastructure projects – financed by oil-backed Chinese bank loans – that have been controlled by the National Reconstruction Cabinet (GRN), which was originally created by President Jose Eduardo dos Santos to deal with the country's massive reconstruction projects. But the institution is ad hoc, reports only to the president and has been run by a retired general. Since September 2010, Sonangol's housing arm, Sonip, succeeded GRN in relation to the construction of housing and infrastructure – yet there has been no thorough reporting of GRN's accounts to the National Assembly.

## DODD-FRANK 1504 AND THE EXTRACTIVE INDUSTRIES TRANSPARENCY INITIATIVE (EITI)

Outside Angola, there are efforts to increase transparency around reporting of oil payments from companies to governments and ensure these are not aiding corruption. In July 2010, the US Congress passed the Dodd-Frank Wall Street Reform and Consumer Protection Act, which included an important transparency provision, Section 1504. The law mandates oil, gas and mining companies registered with the US Securities and Exchange Commission (SEC) to publicly report their payments to foreign governments for access to the country's oil, gas and minerals. This provision follows years of lobbying by international human rights and transparency groups. Payments to be disclosed include taxes, royalties, fees (i.e. license fees), dividends, production enti-

tlements, in-kind payments, infrastructure improvements and bonuses. The data will be provided in a disaggregated manner, on a project-by-project basis, and includes data from all companies, their subsidiaries and other entities under their control. Companies will disclose annual payments over US\$100,000 and will report this on an annual basis. The data will be publicly available on the SEC website. Partial reporting will begin after September 30th, 2013.

The US Congress mandated that the SEC make the rules for the law and the SEC finally announced the rules in August 2012, following almost two years of intense lobbying by industry groups - namely the American Petroleum Institute and the US Chamber

## ACCOUNTABILITY

In Angola, the most powerful institution is the presidency, followed by Sonangol. Their complex and secretive relationship has created a sort of parallel government, wherein oil revenues that flow from Sonangol feed a patronage system that rewards an elite few and keeps the government and MPLA in check, while completely bypassing the formal structures of government that could provide needed checks and balances.

Accountability laws are mixed. There are some strong anti-corruption laws in the statute books, while other legislation serves to perpetuate state secrecy. However, the institutions to enforce the laws are weak. Without institutions to enforce the laws and, more importantly, break the political hold that the presidency and Sonangol have over the country, real democracy will not be possible.

There is nothing in Angolan legislation that protects illegal acts in business, but existing legislation does perpetuate secrecy and creates a loophole for the mismanagement of oil revenues. Article 77(1) of the Petroleum Law states that '...all finance related information provided by oil companies should be confidential'. The Petroleum Taxation Law states in article 68 (1) that '...all revenues received from oil companies should be kept confidential'.

However, the template for Sonangol's Production Sharing Agreements (Article 34 and 33 for Cabinda and all other blocks respectively) states, 'Unless otherwise agreed by Sonangol... all technical, economic, accounting or any other information... shall be held strictly confidential...either party may, without such approval, disclose the aforementioned data: to the extent required by any applicable law, regulation or rule (including without limitation, any regulation or rule of any regulatory agency, securities commission or securities exchange on which the securities of such Party or of any such Party's affiliates are listed)'. And the Angolan government does provide this authorisation. For example, Norway's Statoil discloses payment information from all the countries where it operates, including Angola, as required by Norwegian law. The Brazilian company Petrobras also discloses payment information from countries where it operates.

Beyond this, the Angolan Constitution explicitly establishes the right to freedom of information. Constitutional Article 40(1) states, 'Everyone shall have the right...to inform themselves and to be informed, without hindrance or discrimination'. In 2002, the National Assembly passed the Law on Access to Administrative Documents, which grants open access to public documents and the right to request information. But implementation of the law is unclear and it was eventually subverted by the State Secrets Law,<sup>46</sup> which preserves the government's right

of Commerce, which had been pressing the SEC to weaken the rules. In particular, industry groups claim that such transparency will hurt their ability to compete. They pushed for the project-by-project disclosure requirement to be scrapped and for exemptions in countries whose laws and contracts prohibit such disclosure. Industry groups had cited Angola as such a country – although exemptions in Angolan contracts do allow for such disclosure.

Similar transparency legislation in other countries is closing the transparency loop with even stricter requirements. In mid September of this year the European Parliament's Legal Affairs Committee voted to require EU-registered oil, gas, mining and

forestry companies, as well as large private companies, to disclose all payments of €80,000 or more to governments – also country by country and project by project. If the European Commission and individual member states vote for the final directive, these new transparency requirements would apply to hundreds of companies not covered by the Dodd-Frank requirements, including state-owned companies. The final vote is anticipated early next year.

Interestingly, many the companies that have been lobbying for weaker transparency rules also support the Extractive Industries Transparency Initiative (EITI). The EITI is a ten-year old multilateral process that establishes a set of voluntary global standards for transpar-

ency in oil, gas and mining – transparency over payments by companies to governments, as well as transparency over revenues by host country governments. Companies operating in countries that are implementing the EITI have to publish what they pay to the government. Currently about a dozen countries are EITI compliant countries and two-dozen others are EITI candidate countries. The crux is that while US and EU legislation is mandatory, the EITI is a voluntary process that is not binding and lacks enforcement mechanisms. Data standards also vary among countries that have signed up and the data is often imprecise and unverifiable. Angola is not a participant in the EITI process.

to classify information with high discretion. It states that ‘... financial, economic and commercial interests of the State can be classified as secrets’. The law also grants the government the authority to imprison anyone who releases information that could be regarded as damaging to State interests.

At the international level, Angola is also party to the International Convention on Civil and Political Rights, which states in Article 19, ‘Everyone shall have the right to hold opinions without interference. Everyone shall have the right of freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds’.

As per anti-corruption laws, the Benefits of Public Office Bearers, Decree 23/90, prohibits public officials from engaging in business activities involving the state for personal benefit. Decree 24/90 also deals with Rules for Gifts to Public Office Bearers. The Law of Crimes Against the Economy criminalises extortion, as well as passive corruption: Section 49(1) deals with active corruption, Section 17 deals with illegal appropriation of goods, and Section 19 deals with improper use of goods and services. These laws have since been harmonised under the new Public Probity Law.

Since November 2009, President dos Santos has been calling for a ‘zero tolerance’ approach to tackle public corruption. In

response, the National Assembly approved a law on Public Probity in March 2010, which regulates the use of public funds and goods in Angola. The law penalises corruption and obliges top public officials to declare their personal wealth at home and abroad. Although the law is transparent and clear, it never mentions the word ‘corruption’. The law allows anyone to denounce abuses by public figures, but severely penalises anyone making accusations that are deemed to be false. Important articles include:

- Article 18: Prohibits public officials from receiving gifts, either directly or indirectly, from Angolan or foreign entities’
- Article 25(1a): Prohibits officials from receiving money, assets or other economic benefits, either directly or indirectly, in business deals where they have decision powers or influence; and
- Article 25(1h): Forbids public officials from pursuing jobs or consulting services that may pose a conflict of interest.

At the international level, Angola is also a signatory to the Convention Against Corruption of the African Union, the United Nations Convention Against Corruption and the SADC Protocol Against Corruption.

However, Angola does not have a politically independent anti-corruption institution with a mandate to investigate

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and prosecute corruption cases. There are agencies with some level of accounting mandate, but many of these report to the president.

In July 2010, the National Assembly passed the Money Laundering and Combating the Financing of Terrorism, Law No. 12/10, although implementation of the law is largely deficient. The 2002 Audit Law, which requires audits for all 'large' companies, has also failed to make a difference since the lack of a professional accounting oversight body has impeded its enforcement, and because the law does not require audit results to be made public.<sup>47</sup> There is also no legislation in Angola that protects whistle-blowers from retaliation – neither in the public nor private sector.

As previously mentioned, the president appoints all judges to the Court of Audits, which is Angola's supreme audit office. This agency has the authority to conduct audits of public agencies, including the Ministry of Finance and Ministry of Petroleum. Although the Court has recently started to audit the accounts of some ministries and provincial governments, it generally struggles to operate in the face of large unaccounted funds and a restrictive political environment. The findings and recommendations of the Court are not discussed inside the National Assembly and are not disclosed to the public.

Angola also has an Attorney General and any citizen can lodge a complaint if there is evidence of corruption. This is enshrined in the Constitution. The office has 20 days to decide on the merits of a case, and 3 months to make a determination. Once that time expires, the citizen can then seek international remedy. The Attorney General reports to the president.

In 2005, Angola established the Office of the Ombudsman. However, it is not sufficiently protected from political interference to be wholly efficient, nor does the government take heed of its reports. The Ombudsman reports to the Commission of the National Assembly twice a year, but these reports are not publicly available.

A High Authority Against Corruption was supposed to be created, as per the 2005 Law of the High Authority Against Corruption. However, this mechanism has not yet been established. Section 8 of the law provides for the President to propose the creation of mechanisms to the National Assembly.

Although judicial institutions in Angola lack the political independence, means and technical expertise to hold the oil industry to account, civil society in Angola is using existing legislation to lodge citizens' complaints about alleged public corruption. For example, in January 2012, an Angolan

transparency activist filed suit under the Public Probity Law against the head of Sonangol, the Minister of State and his advisor – as partners of Nazaki Oil – and the directors of Cobalt for illicit enrichment (art. 25,1,a) and for failing to comply with a mandatory public tendering process (Petroleum Law No. 10/04). Cobalt's partners were also accused of influence peddling and active corruption of leaders (as per Criminal Code Art. 321). Angola's Attorney General did not properly respond within the 20 allotted days, but the investigation – coupled with a US Department of Justice and SEC investigation – did garner international attention.

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## OIL REVENUE UTILISATION

### HUMAN CAPITAL

The oil industry provides more than 85 percent of total government revenue.<sup>48</sup> Effective revenue distribution mechanisms are a condition for the effective use of revenues. In Angola, revenue distribution mechanisms are insufficient. This insufficiency results in high levels of poverty and inequality. Angola ranks 148th of 187 countries in the UN Human Development Index and two-thirds of Angolans live on less than US\$2 per day.

The government's 2004 Poverty Reduction Strategy Paper is loaded with terms like social equity and redistribution.<sup>49</sup> But this strategy was never adopted. Instead of pro-poor development, Angola's political economy is characterised by a development model that is controlled by a narrow state-based elite and redistributes wealth upwards and outwards.<sup>50</sup> Public services are portrayed not as citizens' rights and legal entitlements, but as commodities that citizens must pay for or as gifts that they must show gratitude for.

*The oil industry provides more than 85 percent of total government revenue.*

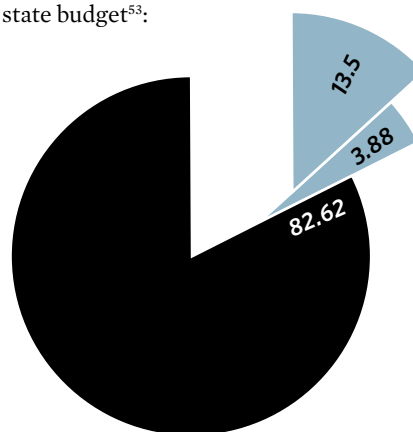
Government spending accounts for around 33 percent of GDP.<sup>51</sup> Yet, when it is broken down, the share spent on social sectors is low. In Angola, one of the greatest deficiencies is human capital. For example, from Angola's 2011 annual budget of US\$45 billion, only 13.5 percent was earmarked for education and health – with education receiving just 8.37% (3.76 million) and health 5.14% (2.31 million).<sup>52</sup>

Conversely, 41.7 percent of the budget was earmarked for 'general public services', which include the executive branch, fiscal and finance issues, external relations, general services, basic investigation. And the distribution of public expenditure on social sectors is even more biased when it comes to spending on different regions.

**NATIONWIDE REVENUE DISTRIBUTION**

By law, the provinces of Zaire and Cabinda are assigned the equivalent of 10 percent of the tax income from the oil activity in each province. This revenue is allocated to public investment expenditures, with a view to enabling these provinces to benefit more directly from oil activities. It is unclear whether these funds represent additional money for Zaire and

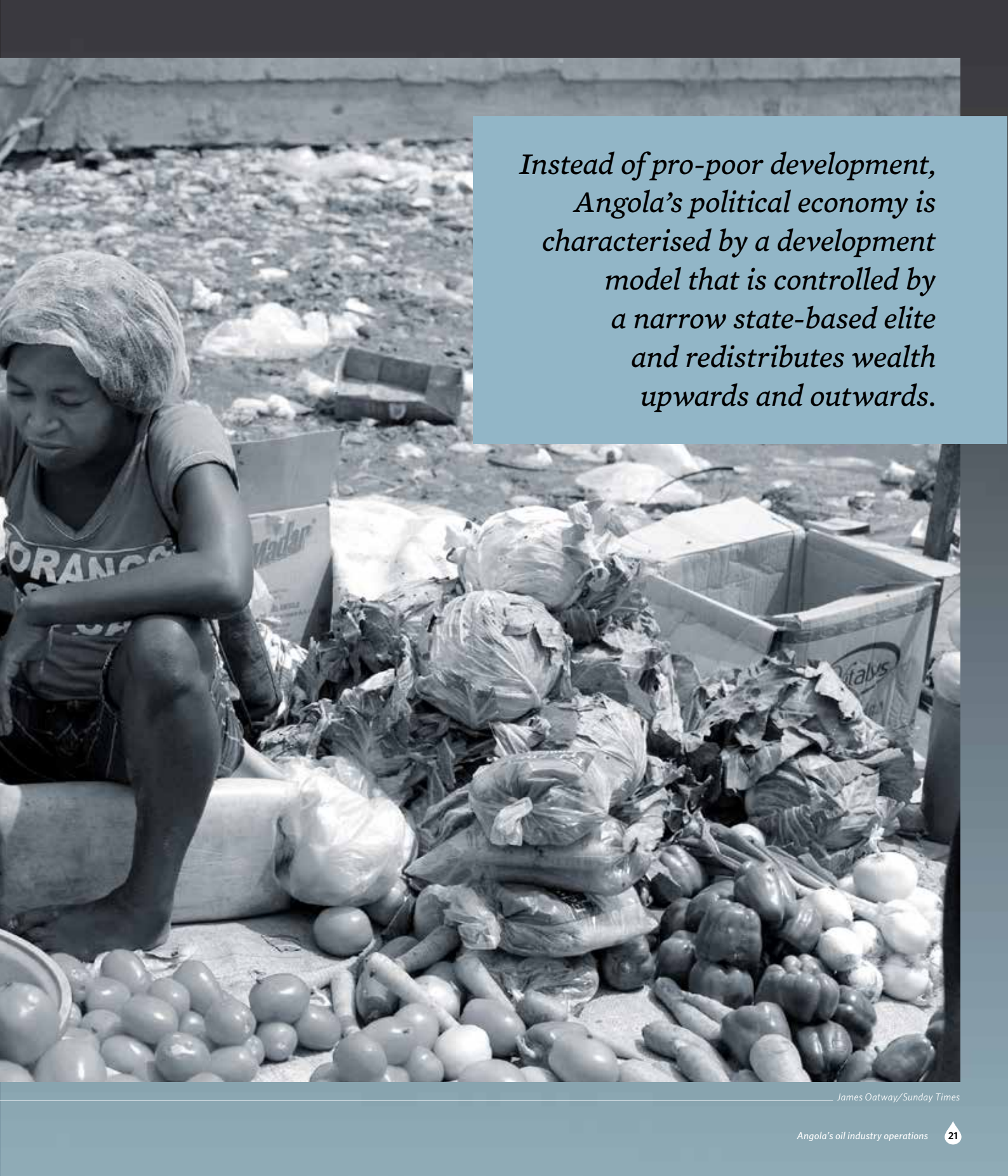
Cabinda or whether they simply replace money earmarked for regional budgets. What's more, the 10 percent is unreliable and the distribution policy does not account for the inflated cost of living resulting from an inflated local market because of the industry's presence in the regions. Among the remaining provinces, the revenue distribution policy has increased inequality and animosity, as there is no nationwide revenue distribution mechanism. These stark inequalities are evident when distribution is broken down per province as a percentage of the US\$45 billion 2012 state budget<sup>53</sup>:



Central government: **82.62%**  
 Luanda province: **3.88%**  
 Remaining 17 provinces: **13.50%**

PROVINCE	ANNUAL BUDGET (IN US DOLLARS)
Bengo	258,288,306
Benguela	647,289,723
Bié	337,183,308
Cabinda	459,715,178
Central government	37,187,032,267
Exterior	340,959,555
Huambo	520,976,879
Huíla	505,330,464
Kuando Kubango	281,068,038
Kuanza Norte	247,148,660
Kuanza Sul	297,377,050
Kunene	233,299,042
Luanda	1,745,717,950
Lunda-Norte	232,830,112
Lunda-Sul	231,032,284
Malanje	359,040,541
Moxico	314,180,943
Namibe	205,654,510
Uíge	384,228,275
Zaire	222,709,811





*Instead of pro-poor development, Angola's political economy is characterised by a development model that is controlled by a narrow state-based elite and redistributes wealth upwards and outwards.*

## SMALL AND MEDIUM ENTERPRISES

Beyond this, the government should facilitate employment by supporting micro, small and medium-sized enterprises (SMEs). Earlier in 2012, the government announced that it would invest US\$1.8 billion – financed through the state budget, national development fund and others – to help create SMEs, develop existing ones and reduce the economy's dependence on the state. The government is the country's biggest employer and support for SMEs, particularly through credit extension, would go a long way towards enabling sustainable development in Angola. The Catholic University of Angola's socio-economic research centre, CEIC, records unemployment at around 25 percent, but notes more than half of the population relies on the informal sector to generate

## INFRASTRUCTURE INVESTMENTS

Instead of direct investments in the provision of social services and lines of credit for the development of Angola's non-oil private sector, the government has largely utilised oil revenues to fund large infrastructure projects, including railway lines, airports, road construction and housing. But the country's lax procurement policies have led to suspicions that significant leakage and corruption occur through these large-scale projects. As stated previously, these projects have been administered through the National Reconstruction Office (GRN), which was created to manage large investment projects, and in direct response to political rivalries within the state<sup>56</sup>. The GRN is exclusively accountable to the president and

allocated among projects and how much money has been spent so far. What's more, since September 2010, Sonangol's housing arm, Sonip, has succeeded the GRN in relation to the construction of social housing and infrastructure. However, the transfer of these GRN activities was not preceded by a clarification of finances, nor have GRN competences returned to appropriate ministries.

Interestingly, in March 2011 the government established the Petroleum Development Fund by Presidential Decree 48/11. This new fund, financed from oil revenues, is expected to promote the development of energy and water projects. The government, for example, is expecting to invest around US\$20 billion in the

*The President's son and nephew were appointed to the fund's board, and the presidential economic advisor will head the fund.*

income, and in rural areas most remain dependent on subsistence farming.<sup>54</sup> Beyond human capital and social capital constraints, poor entrepreneurs in Angola are financially constrained. A 2008 survey commissioned by the Angolan Central Bank and UNDP found that 'only 0.4 percent of micro, small and medium-sized enterprises in Angola have obtained credit' and that 'most banks limit their lending to a select group of customers whom they know and trust', while 'most businesses and households continue to lack access to financing for investment'.<sup>55</sup>

does not operate within the formal structures of government. The GRN was headed by the president's top military advisor and Head of the Military House. The GRN managed a 2005 US\$2.9 billion oil-backed line of credit from the China International Fund for infrastructure projects, which were to be carried out by Chinese construction companies. Although GRN's financial flows should officially pass through the Ministry of Finance's accounts,<sup>57</sup> it is unclear how much money is directly managed by the GRN, how funds are

construction of new hydroelectric dams over the next five years. The fund has a legal status, owns property and assets and has administrative and financial autonomy. It is seen as a public relations initiative in response to criticisms that the oil sector lacks transparency and revenues are not invested on poverty alleviation. The President's son and nephew were appointed to the fund's board, and the presidential economic advisor will head the fund.



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## POLICIES AND PRACTICES OF SONANGOL

Behind the presidency, Sonangol is the most economically and politically important institution in Angola. Sonangol is at the centre of the country's financial strategy. Billions of dollars in oil rents pass through Sonangol and are reinvested and doled out to feed the vast patronage system that helps the presidency and party maintain political power.

Sociedade Nacional de Combustíveis de Angola (Sonangol E.P.) was established in 1976 and is the largest company in Angola. Its roles are various. It is the country's sole concessionaire, and the lead negotiator for every oil exploration and production license. The company also produces petroleum, and has exploration and production capacity. Sonangol funds its share of production through oil-backed borrowing. It collects oil revenues and sells oil on behalf of the state. It regulates the oil industry. But Sonangol reaches beyond oil, with a diverse portfolio, under the banner of Grupo Sonangol, which consists of dozens of subsidiaries that have Sonangol as their primary client. Sonangol has been acclaimed as the country's most competent institution and, through strategic global investments, it is a primary vehicle used to control Angola's image abroad.<sup>58</sup> Sonangol reported US\$33.78 billion in sales and US\$3.3 billion in net profits for 2011.<sup>59</sup>

Sonangol's current structure and control of oil rents provide major vehicles for potential mismanagement of state funds, including:<sup>60</sup>

- Like other oil companies operating in Angola, Sonangol is liable for taxes. The core of its assets consists of the equity shares in the oil concessions that the government has entrusted to it – meaning, its partnership in oil blocks. These assets generate a net income that, in theory, should go to the State as the exclusive shareholder in Sonangol, but in practice, these funds are largely reinvested in Sonangol and its subsidiaries. In 2009, for example, these funds amounted to US\$2.8 billion.
- As concessionaire, or government fiscal agent, Sonangol signs the production sharing agreements with foreign oil operators in Angola and receives a share of the profits from that oil, which are then transferred to the national treasury.
- Sonangol is tasked with an array of quasi-fiscal activities (QFAs), which are paid from the aforementioned oil profits that are transferred to the treasury. These activities, for example, include free supply of fuel to certain agencies. Yet these QFAs are not fully included in the government budget, nor are they explicit in Sonangol's financial statements. For example, the 2010 budget includes US\$9.8 billion to cover the 'general subsidisation and free supply of retail petroleum products to select agencies'. It is these quasi-fiscal expenditures that account for the missing US\$32 billion, as reported by the IMF in its December 2011 report.
- Sonangol receives signature bonuses – as mandated by the Petroleum Law and PSAs – paid by foreign oil companies on the award of a concession. Signature bonuses are standard practice around the world. They are leveraged during the public bidding process for granting an oil concession and weighed against other offers. The amounts of these one-time payments are largely undisclosed, but can range in the billions. For example, industry media reported that in 2006 Petrobras paid US\$50 million for oil block 26, while Petrobras paid US\$1.1 billion for oil block 18 and Total also paid US\$1.1 billion for oil block 17.<sup>61</sup> These funds should also be reverted to the national treasury.
- Oil companies, as per their PSAs, also pay a contribution to Sonangol for social projects. The amount of these is stipulated each contract and is also largely undisclosed. There is no public information about what types of social activities oil companies finance under PSAs or their selection criteria. Sonangol dictates the use of these funds in dialogue with the operator of each block and Sonangol controls the use of the funds. Also, as per the Petroleum Activities Law, a portion of the aforementioned signature bonus is also earmarked for social purposes. There is little information on how the funds for social purposes are used, and, again, Sonangol has the final decision on the use of these funds.<sup>62</sup>

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And it does not end there. Sonangol is currently at the forefront of several key sectors of the economy, and its interests are expanding. The taxes Sonangol pays to the state are largely reinvested in Sonangol, its subsidiaries and other projects – which are growing and diversifying. On its website, Sonangol claims to have approximately 30 subsidiaries. Sonangol's Sonagas, for example, is developing Angola's natural gas, while Sonangol Shipping and Sonangol Distribuidora transport crude oil and supply downstream petroleum products to domestic markets respectively. Sonangol is involved in housing via Sonip, which is currently overseeing development of the Special Economic Zone outside Luanda as well as several housing projects in Lobito and others. Sonip's main partner is China's CITIC<sup>63</sup> construction company.<sup>64</sup> Sonangol will be involved in manufacturing, via the newly created Sonangol Investimentos Industriais, particularly in the economic zone of Luanda Bengo. Sonangol is also involved in telecommunications via MSTelcom, in air transportation via SonAir<sup>65</sup>, and in health care via Clinica Girassol. Beyond these, Sonangol has a dozen other oil-related subsidiaries and projects.<sup>66</sup>

Sonangol has also been acutely involved in the banking sector – and some Angolan banks were first established with Sonangol as the main shareholder, such as the Banco Africano de Investimento (BAI). BAI currently ranks as Angola's top bank with assets of US\$7 billion.<sup>67</sup> In 2010, it was the subject of a money-laundering inquiry by a US Senate panel. The panel analysed the ties between the multinational bank, HSBC, and Angola, alleging that HSBC provided US banking services to politically connected officials of Sonangol through BAI without designating the transactions as potentially high risk. Sonangol also has an indirect share of the Portuguese oil company, Galp Energia, through a joint venture with the president's eldest daughter and BAI. Sonangol is also a major shareholder in Millennium BCP, Portugal's biggest private bank.

Furthermore, Sonangol's reach outside Angola is growing. Sonangol maintains Sonangol USA Company (for US markets), Sonangol Limited (for UK markets), and China Sonangol. Sonangol has operations, exploration ventures and equity in oil projects in Cape Verde, Congo-Brazzaville, São Tomé and Príncipe,<sup>68</sup> Brazil, Cuba, Venezuela and the Gulf of Mexico. The company withdrew from Iraq last December and recently announced withdrawal from Iran because of international sanctions.

Set up in Hong Kong in 2004, China Sonangol is a key joint venture for the company. Sonangol maintains a 30 percent share, while private Hong Kong investors own the remaining 70 percent. China Sonangol is part of what a US agency has dubbed 'The 88 Queensway Group' – a series of Chinese firms operating in Angola and elsewhere with headquarters in the same Hong Kong address, which includes China International Fund.<sup>69</sup> Until September 2011, the chairman of Sonangol also served as chairman of China Sonangol. China Sonangol is shrouded in secrecy and has been at the centre of global investigations.<sup>70</sup> The company and its subsidiaries<sup>71</sup> have 'pledged to invest billions of dollars across sub-Saharan African, Latin America and South East Asia, largely as part of resource for deals in Guinea and Zimbabwe'. China Sonangol currently holds shares in 4 oil blocks in Angola. China Sonangol is also a partner in Sonangol Sinopec International (SSI), which is joint venture with the state-owned China Petroleum and Chemical Corporation (Sinopec).<sup>72</sup> SSI holds shares in 4 oil blocks. The Economist reports that China Sonangol buys oil from Angola at a low price that was fixed in 2005 and sells it to China at today's market price – a US\$50/barrel difference (although the contract is a secret). In return, the China syndicate is involved in housing, infrastructure, roads, railways, hydroelectric plants and other projects.<sup>73</sup>

When the price of oil dropped in 2009, the Angolan government turned to the IMF for financing (the government owed US\$9 billion in arrears to foreign construction firms in the country<sup>74</sup>) and the IMF agree to a US\$1.4 billion loan. Ironically, shortly after this agreement, Sonangol bought a 20 percent share of Marathon's stake in offshore block 32 for US\$1.3 billion.<sup>75</sup> The Sonangol Chairman was quoted in a Sonangol magazine as saying, "We will add this share in block 32 to a joint venture we have with the Chinese called China Sonangol."<sup>76</sup>

## POLICIES AND PRACTICES OF MULTINATIONAL OIL COMPANIES

In Angola, oil production is increasingly taking place in deep and ultra-deep water. The technology involved in drilling is complex, and the field development costs are extremely high, as are the risks. Small players cannot participate without linking up with large multinationals – and even Chinese companies, although partners, are not operators in these oil concessions. Therefore, multinationals are irreplaceable and this increases their leverage and ability to influence government policies. Beyond this, foreign companies have market power and technical capacity that could potentially be directed towards boosting Angola's overall development. Instead, in Angola, as across the globe, multinationals' influence has primarily been directed at ways to maximize their profit.

Angola's multinational oil operators include: Chevron (US), ExxonMobil (US), BP (UK), Total (France), Petrobras (Brazil), Cobalt (US), Tullow (UK), Vaalco (US), Pluspetrol (Argentina), Maersk Oil (Denmark), Eni (Italy); and those awarded licences to operate in the most recent pre-salt deep-sea concessions: Statoil (Norway) and Repsol (Spain). Beyond these, a number of other foreign oil companies are partners in oil blocks, including: Galp (Portugal), SSi (China), Marathon (US), Falcon Oil (US), Prodoil (Norway), Ajoco (Japan), Svenksa (Sweden), Tenenge (Brazil) and Partex Oil & Gas (Portugal). Other companies include Acrep, Inter Oil, Geminas, Initial Oil & Gas, Ina-Nafta, Naftagas, Force Petroleum, Alper Oil, Nazaki Oil & Gas, and Somoil. Chevron has the longest history in Angola, beginning its operations in the late 1950s. Meanwhile, BP has been in Angola for almost 40 years, Statoil for almost 20 and ExxonMobil since the mid-1990s.

On the whole, oil companies do not touch governance or transparency issues in Angola and this has historically always been the case. Multinational companies have been drilling for oil in Angola for decades and, in general, securing their access to the state-controlled commodity means that they have needed to remain on good terms with each government in turn. In Angola, this translated into oil financing and fuelling

the post-independence civil war – through weapons procurement, dubious charitable donations, and other forms of assistance.<sup>77</sup> While UNITA forces had access to diamonds, the MPLA exploited the oil revenues.

Co-operation among the oil majors would make it difficult for the Angolan government to threaten to or even expel firms on purported violation of domestic laws. Instead, companies' continued transactions with the government – without calling the terms of the transactions into question – has facilitated patronage problems, encouraged rent seeking and exacerbated the resource curse.

However, there are some exceptions. In 2001, BP announced that it would publish its total production by block, its payments to Sonangol, the taxes it paid to the Angolan government and its signature bonuses. But this attempt at transparency was met with an aggressive response from Sonangol and a threat to revoke its licence. Ironically, this is the same level of revenue reporting under the US Dodd Frank Act that BP – and other multinational members of the American Petroleum Institute – lobbied to try and prevent.

Among the oil majors, Norwegian companies lead in transparency efforts. Statoil has been disclosing information, such as that now mandated by the Dodd Frank Act, in Norway as per Norwegian securities regulations. The company uses the disclosure exemption provision in its Production Sharing Agreement with Sonangol, whereby Sonangol will authorise foreign operators to publish such information if mandated by home-country laws.<sup>78</sup> Outside of the Norway, Angola is the largest source of oil for Statoil – relying on Angolan crude for over 170,000 barrels of its 2 million barrels per day portfolio.<sup>79</sup> Meanwhile, another Norwegian firm, Norsk Hydro, has tried

*companies' continued transactions with the government ... has facilitated patronage problems, encouraged rent seeking and exacerbated the resource curse.*

to include anti-corruption provisions in its contracts. After signing a PSA with Sonangol in 2005, Norsk Hydro attempted to incorporate in its joint operating agreement a 'warranty that the parties would not make corrupt payments and a requirement that any public officials with an ownership interest in one of the partners would not participate in governmental decisions affecting the venture (as already required by Angolan law)'.<sup>80</sup> Although laudable, these efforts are singular and have not been copied by others in the industry.

On its part, Chevron has been consistently complacent in efforts to address governance problems. In Cabinda, in particular, where the company has the biggest presence, community groups have for years been calling on the company to use its economic power as leverage with the Angolan government – and for years, Chevron has stated that it does not get involved in democracy or governance issues.<sup>81</sup> Chevron is the most important market player in Angola's oil industry and the oldest foreign operator. The company has been drilling for oil in Angola since 1958, through its subsidiary Cabinda Gulf Oil Company. It is the lead operator in Angola's most profitable oil blocks (namely block O), and it is the largest foreign oil industry employer.<sup>82</sup> It is one of Angola's largest oil producers, with shares in deep-water and shallow-water oil wells and in Angola LNG. The company also invests millions of dollars in CRS projects, but none of this money is directed at democracy building initiatives.

However, Chevron is not the exception. Multinationals often tout their CSR projects as a means of improving the livelihoods of the communities where they operate. In Angola, multinationals contribute to social activities through three different channels, two of which are required by law and one of which is voluntary:<sup>84</sup>

Production Sharing Agreements broadly require companies to support CSR projects, although what these projects consist of and how exactly they are developed is not clear. Nor is there information on how the effectiveness and efficiency of the projects will be evaluated. And since Sonangol controls the use of the funds, projects related to improving governance are highly unlikely.

The Petroleum Law also requires that part of the signature bonus be earmarked for social purposes. Again, there is little information on how the funds for social purposes are used, and just like PSAs, Sonangol has the final decision on the use of the funds, which, again means no funding for projects to promote good governance.

Projects funded by post-tax voluntary contributions are what are normally thought of as CSR – and it is these projects that are most widely promoted by multinationals. Oil companies manage these on their own. Projects are either run directly by company managers or through partnerships with NGOs and church organisations, which implement the projects. Chevron plays a leading role in these partnership arrangements. Once again, no partnerships directly address governance and democracy issues. Instead, voluntary projects focus on the provision of basic services.

On the protection of the environment and mitigation of impacts, multinationals operating in Angola get a free pass. The Ministry of Environment lacks the technical, resource and staff capacity to properly monitor the oil industry. Local capacity is so weak that the oil industry practically writes the environmental laws and monitors its own activities and impacts. And although multinationals may claim that they follow global environmental, health and safety policies, they often take advantage of weak host-country laws. For example, to

deal with spills, the Angolan government has approved oil companies' use of the chemical dispersants, Corexit and Inipo, even though there are safer alternatives available. Corexit and Inipo have been linked to serious neurological damage and cancers and are extremely hazardous to marine life. The UK's Marine Management Organization banned Corexit over a decade ago; so if there were a spill in the UK's North Sea, BP is banned from using Corexit. But in Angola, BP uses Corexit. Indeed, Corexit is clearly included in the country's national oil spill plan.<sup>85</sup>

However, there have been some efforts recently to hold multinationals to account. Since 2009, OSISA has been participating in the True Cost of Chevron Network, and has addressed the company's senior management, board and shareholders about the company's operations in Angola during Chevron's annual meetings. Cabindan residents and environmental groups, such as Gremio ABC, have also for years demanded that Chevron end its environmental and human rights abuses and called for improved compensation and revenue distribution mechanisms. In a unique turn of events, the Angolan government, for the first time, imposed a fine on Chevron in 2002 after poorly maintained pipelines used to transport crude oil from its platforms leaked. International transparency watchdogs like Global Witness have also called out the majors, including BP, for failure to disclose payments to the Angolan government.

Still, multinationals in Angola have not found themselves ensnared in major international human rights or environmental scandals, or litigation – unlike in other countries where they operate. The majority of Angola's oil reserves are offshore reducing their accessibility and visible impact and requiring much less security to protect the facilities than is required, for

example, by Shell or Chevron in their onshore fields in Nigeria. In addition, the majority of Angolans are uninformed about the realities of the oil industry and its impacts on governance, corruption, the environment and human rights.

Multinationals may on the whole be skirting by governance issues in Angola, but they are increasingly – albeit slowly – being called to task by their home country governments in relation to corruption allegations. For example, the US Foreign Corrupt Practices Act (FCPA) was enacted to counter the bribery of foreign officials. The anti-bribery provisions of the FCPA make it ‘unlawful for a US person and certain foreign issuers of securities to make a payment to a foreign official for the purpose of obtaining or retaining business for or with, or directing business to, any person’. Since 1998, the anti-bribery provisions also apply to ‘foreign firms and persons who take any act in furtherance of such a corrupt payment while in the United States’. The Department of Justice (DOJ) has jurisdiction over all related criminal violations under the act, and the SEC tracks civil violations committed by US companies. Companies have found that the most effective way to mitigate punishment and lessen penalties is through self-disclosure. So rather than being dragged into a high-profile court case, companies will settle out of court.

Texas-based oil and gas services giant Halliburton, as per its disclosure to the DOJ and the SEC, is currently conducting an internal investigation into possible FCPA violations in Angola after the company received an anonymous email in December 2010 alleging FCPA violations ‘principally through the use of an Angolan vendor, including conflicts of interest and self dealing’.<sup>86</sup> In February 2009, Halliburton paid out US\$579 million to settle FCPA violations after pleading guilty to paying Nigerian officials at least US\$182 million in bribes

for contracts awarded to build liquefied natural gas facilities in Nigeria.<sup>87</sup>

Similarly, Cobalt International Energy disclosed a potential FCPA violation in its March 2011 10K report filed with the SEC, suggesting that the company was forced by the Angolan government to partner with two local oil and gas exploration and production companies (Alper Oil and Nazaki Oil & Gas) that Cobalt knew nothing about, stating ‘In connection with entering into our Risk Services Agreements for blocks 9 and 21 offshore Angola, two Angolan-based E&P companies were assigned as part of the contractor group by the Angolan government. We had not worked with

either of these companies in the past, and, therefore, our familiarity with these companies is limited’.<sup>88</sup> As previously stated, Nazaki Oil & Gas is owned by the (now former) Chairman and CEO of Sonangol, and by the Minister of State, and his top lieutenant.<sup>89</sup>

For multinationals operating in Angola, the standard assumption should be that ‘good’ institutions are in their best interest. Instead, multinationals, for the most part, are choosing to actively perpetuate rent seeking and patronage systems. Instead of seeing this as a collective problem, there is collective complacency and collective avoidance of governance issues.

## CHEVRON IN ANGOLA

In 2002, Chevron launched the Angola Partnership Initiative (API) – incidentally, two years before a major decrease in USAID’s funding for humanitarian assistance to Angola. Chevron allocated US\$25 million for the five-year duration of the programme. In its reporting on the Initiative, Chevron states it ‘chose to treat API as not just a responsibility but also an investment that could serve to deepen stability and build capacity in the host country’. The company claims ‘API also strengthened Chevron’s reputation within the United States government’.<sup>83</sup> To a company that made a profit of US\$27 billion in 2011, US\$25 million over a five-year period is a paltry amount. But this small contribution was worth a tremendous amount in terms of the company’s public relations efforts. In particular, it helped to:

- (1) Secure a ‘social license’ to operate in Angolan communities without fear of sustained local protest;
- (2) Present itself globally as a company that cares; and
- (3) Associate itself with American democratic values despite contributing to an autocratic regime in Angola.

Following the five-year Initiative, Chevron’s CSR has become much wiler. Chevron has shifted from a regional focus to a national focus. And the company has shifted its ‘philanthropic’ giving to a ‘development model’ of assistance – meaning that Chevron is creeping into spaces traditionally occupied by development organisations, engaging in capacity building initiatives while really ensuring the community’s dependency on the company. By expanding nationally to regions outside the company’s geographical sphere of operations, Chevron is also buying broad community acceptance and cementing its favourable relations with the government – especially by addressing development and reconstruction needs in areas where the government is largely absent.



## OIL INDUSTRY AND ENVIRONMENTAL JUSTICE

In Angola, the link between the oil industry and environmental justice is twofold. It pertains to the State's responsibility to ensure that the extraction of the country's natural resources is done in a sustainable manner, respects local people and the environment, and the benefits are distributed equally; and it pertains to the oil companies' corporate responsibility in ensuring environmental safety and sustainability in their practices. In Angola, both the State and the multinationals are guilty of environmental injustice. The government takes little care in enforcing laws that protect the public and environment, and prioritises economic growth over inclusive sustainable development. In Cabinda, in particular, the prevailing 'security' discourse often serves to ignore the real economic and environmental problems faced by vulnerable populations. For their part, multinationals are guilty of double standards: they collaborate with a kleptocratic government and hide behind weak host country laws.

The damage from oil and gas operations is chronic and cumulative. The risk of damage occurs at every stage of the oil cycle: exploration, production, transportation, refining and consumption. In Angola, the risks and damage to the environment, public health and livelihoods of residents have been very poorly addressed.

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## PROJECT CYCLE IMPACTS

Fishing communities and residents along the Angolan coast claim that oil spills from offshore facilities are constant. Anecdotal information abounds. However, hard data is difficult to obtain and there do not appear to be any estimates of spillage – at least none that are publicly available. The Angolan government and oil companies do not necessarily report all spills, while some spills are underreported and others are reported long after the fact. The source of the spills is also at times unclear. For example, Chevron will sometimes claim that spills reaching Cabindan waters originate in the Democratic Republic of Congo (DRC) or the Republic of Congo. Chevron claims to have the capability to conduct environmental ‘fingerprinting’ analysis – a technique for identifying the composition and origin of oil.<sup>90</sup>

Angola has not suffered a major oil disaster since 1991, when 260,000 tons of oil spilled into the ocean after the ABT Summer oil tanker exploded 1,300 kilometres off the coast. There was no clean-up of the spill, as it was believed that the high seas would disperse the oil naturally. Since then, there have been a number of smaller spills, including the 1999 spill at the Malongo terminal, which resulted in Chevron compensating victims with around US\$2,000, and the aforementioned Chevron spill in 2002, when poorly maintained pipelines used to transport crude from the platforms leaked, leading the government to impose a US\$2 million fine on the company. Other reported spills at Chevron facilities include one in August 2010, another in February 2011 (4,000 barrels at its Malongo base) and yet another in December 2011. Many more spills go unreported, as per local anecdotal information.

Beyond oil spills, artisanal fisher folk in Cabinda have complained that seismic testing has also driven away the fish. Operators perform seismic testing during the oil exploration phase. It involves a series of high-intensity and low frequency sounds emitted to develop graphic representation of subterranean oil deposits. For marine creatures, it can be akin to a cannonball blast next to the eardrum. Seismic testing can disturb migration patterns, damage the auditory capacity of certain fish species, harm shellfish and drive away fish.<sup>91</sup>

The exploration and production phase both generate waste in the form of metal cuttings, drilling fluids and produced water. Drilling fluids (or drilling muds) are used for the lubrication and cooling of the drill bit and pipe. They can release toxic chemicals, like methyl mercury, that can also affect marine life and bio-accumulate in fish. One drilling platform normally drills between seventy and one hundred wells and discharges more than 90,000 metric tons of drilling fluids and metal

cuttings into the ocean.<sup>92</sup> The older the well, the more produced water it will generate. These produced waters contain hydrocarbons that are dangerous to marine life. As previously mentioned, there is no adequate government monitoring of hazardous waste disposal, or public information about the amount of hazardous waste produced.

Companies in Angola also employ hydraulic fracturing to increase production. Hydraulic fracturing injects water and chemicals (like 2-butoxy ethanol, benzene and others) into wells at high pressure to fracture subsurface rocks and push oil and gas to the surface. Fracturing can challenge the structural stability of aquifers and can provoke saltwater intrusion. For its fracturing activities, Halliburton uses 2-butoxy ethanol, which is odourless and tasteless in low concentrations. This process can potentially endanger domestic water wells near fracturing sites.<sup>93</sup>

Gas flaring is also used by operators in Angola as a means of getting rid of gas that is released as an associated by-product of oil production. Gas flaring produces greenhouse gas emissions, including carbon dioxide, methane, sulphur dioxide, nitrogen dioxide, and other carcinogens. The most recent figures show that Angola flared 3.1 billion cubic meters of gas – or 69 percent of its production – in 2008.<sup>94</sup> The 5-million-tons per year LNG plant near Soyo was built to capture and market this natural gas.

For LNG, the liquefaction of natural gas involves the freezing of liquid gas so it can be shipped to markets in refrigerated tankers, where it can be warmed back into a gas to be injected into local pipelines. Although the impact of leaked oil exceeds the impact of leaked gas and although gas does not contribute as much as oil to global warming, the potential risk of an explosion at the LNG terminal – given that natural gas is highly flammable and that there is a genuine risk of tanker collisions – is real. Yet this has not been fully disclosed to local Soyo residents.

## HEALTH AND ECOSYSTEM IMPACTS

Oil seeps, leaks and spills release polycyclic aromatic hydrocarbons (PAHs) and other volatile components into the marine environment in high concentrations. PAHs are some of the most persistent and toxic components in crude oil. Volatile components of oil can burn eyes and skin, and irritate or damage sensitive membranes in the nose, eyes and mouth. Hydrocarbons can trigger pneumonia if they enter the lungs. Benzene and other light hydrocarbons can damage red blood cells, suppress immune systems, and strain the liver, spleen and kidneys. Oil workers in particular are at risk of injury and chronic disease from exposure to PAHs and other chemicals, such as cadmium, arsenic, cyanide and lead. People who clean up shorelines from oil spills are also at risk of injury. Residents in Cabinda have complained of rashes

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and respiratory problems.<sup>95</sup> This may or may not be related to oil exposure – since there have not been any public health studies conducted in Angola’s main oil producing regions to help make that determination.

In terms of marine life, chronic exposure to PAHs can shorten life spans, interrupt important breeding physiology and behaviour, and result in population level effects. In Cabinda, there is concern about the degradation of mangroves. In the village of Landana – the location of the largest regional mangroves – Chevron and the Ministry of Environment have done studies, including water sampling, to determine the cause of mangrove degradation, but with no clear conclusion.

As with the majority of environmental problems along the northern coast, there have been no independent studies conducted. Similarly, communities complain of crops drying up. Hydraulic fracking offshore in Cabinda, and onshore and offshore in Soyo could lead to a salinisation of crops. But again, no independent scientific studies have ever been conducted in the region.

## FISHERIES

The depletion of fish stocks is the leading complaint about oil operations in the northern provinces. Artisanal fisher folk in Cabinda insist that there has been a steady decline in fish stocks for the better part of a decade. They claim that they now have to travel much further out to sea, only to return with a small catch. Fisher folk attest that explosive charges from seismic testing have affected fish in the area. They complain that oil spills are far more frequent than the region’s main operator, Chevron, formally reports and that these have contributed to a decline in fish stocks. They also contest the limitations the government and companies have set that prevent fishing near oil platforms. The government contends this is a preventative security measure.

In response, the Angolan government has claimed that industrial fishing is responsible for the depletion in stocks. Another theory is that the number of artisanal fishermen has increased. If there is an increase in the number of people fishing, this may be due in part to an increase in the number of people registered with the Institute for the Development of Artisanal Fishers and Aquaculture (IPA) – the main government body dealing with artisanal fisheries, and not necessarily to an increase in the actual number of artisanal fisher folk. Chevron has incentivised registration by favouring those who are registered when doling out compensation following a spill. Yet another theory points to the Benguela current and climate change contributing to nutrient poor

water and oxygen depletion, which harm various species. The Benguela Current is also characterized by currents, which rapidly dissipate pollution.

In the absence of unbiased scientific testing and laboratory facilities, however, it is difficult to determine what is depleting the fish populations. For example, if a spill occurs and Chevron accepts responsibility (following their ‘fingerprinting’ test) then the company will collect water and fish samples, which are sent to overseas laboratories of their choice since there are no laboratories in Angola equipped for that level of testing. Chevron has not made the results of these tests publicly available. Chevron did commit itself to establishing a water-testing laboratory in Cabinda following the 2002 spill, but to date, the laboratory is still not operational.

Interestingly, in September 2007, BP began the DELOS project – with the aim of understanding the deepwater areas around BP facilities, particularly block 18. The project will monitor the ocean floor for 25 years. The DELOS project is led by the University of Aberdeen. Other vessels, which are funded by the Norwegian aid agency Norad, are also monitoring deep-sea fish stocks, as fisheries are of great

*The depletion of fish stocks  
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about oil operations in  
the northern provinces.*



importance to the Angolan government. But they are only collecting data on fish stocks and species, not on heavy metal contamination in fish.

## COMPENSATION

Procedurally, when oil reaches the shore and a spill is acknowledged by, for example, Chevron, the company will send a clean-up crew to the area. Chevron will dole out compensation to those claiming damages. In Cabinda, fisher folk are organised into associations – including the leading two, VOPESCA in the north and APESCAB in the south of the province. To receive compensation, fisher folk need to be registered with IPA. Fisher folk attest that Chevron favours wealthier registered fisher folk over informal, day labourers, while disregarding the wider affected community, including women fish traders. People claim that Chevron used to deal directly with fisher folk but that compensation negotiations are now carried out indirectly. People complain that there is no transparency in the compensation process and that compensation criteria are non-existent, which is consistent with the absence of any national regulations establishing compensation criteria. Moreover, Chevron is transitioning from doling out direct compensation,

to contracting NGOs, such as World Vision, to implement ‘development projects’, such the “Tuenda Tububa” project, which includes the distribution of fishing nets and boat motors.

An effective environmental justice movement in Angola would involve providing communities with independent, scientific information on the status of oil-related impacts on fisheries, mangroves, waterways and public health, particularly those in the northern provinces. But without unbiased laboratory facilities, it is difficult to determine what is depleting the fish stocks, damaging the crops and affecting the health of local people, beyond anecdotal information. The movement would also need to develop a community-based environmental monitoring programme, which works in tandem with broader efforts to increase the local knowledge base on a range of rights issues, such as citizens’ ‘right to know’ laws, oil revenue distribution, the legislative and regulatory structures of the oil industry, and environmental protection. Finally, a successful environmental justice movement would need to create linkages and solidarity networks across the country and internationally in order to share experiences and build relationships, which would lead to a wider knowledge base, more effective collaboration and greater collective power.



Lori Wasechuk/South Photographs/Africa Media Online



## OIL AND ECONOMIC EMPOWERMENT OF LOCAL COMMUNITIES

*In Angola, economic empowerment starts with information – information about oil revenues and communities' entitlement to these revenues, and information about citizens' economic and social rights.*

Oil producing-provinces of Zaire and Cabinda are entitled to 10 percent of the revenue from taxes collected on the oil produced in each province. Payments are made directly by oil companies, via the Ministry of Finance. But these transfers are not commensurate with the amount of oil produced. For example, basing calculations on the most prolific oil blocks, in 2011, Blocks 0 and 14 in Cabinda province yielded a total of 1.08 trillion Kwanzas in ordinary revenue, while Blocks 15 and 17 in Zaire province yielded a total of 2.2 trillion Kwanzas in ordinary revenue.<sup>96</sup> However, in 2011, total annual transfers to Cabinda were budgeted at 0.95 percent of total regional transfers – equal to 39 billion Kwanzas, while total annual transfers to Zaire province were budgeted at 0.39 percent of total regional transfers – equal to just 16 billion Kwanzas.<sup>97</sup> Therefore, an effective economic empowerment programme would need to begin by calculating exactly how much revenue the most affected provinces are entitled to, and subsequently – through budget monitoring training – analyse how provincial and municipal governments are spending it.

Although corruption concerns dominate the national oil advocacy landscape, most civil society engagement around oil impacts and beneficiation has been confined

to the province of Cabinda, where the majority of the offshore oil is being produced. Compared to the rest of the country, Cabinda's population is naturally more engaged on the issues, as they bear the burden of oil extraction and because they supposedly receive additional benefits in the form of extra revenue, employment and social services. This is typical of oil production across the globe, where the localised tensions created by the industry are often not shared with the rest of the country. It becomes a marginalised issue, and the struggles and protestations of the local population are ignored, minimised and sometimes framed by the national government as impediments to development.

According to OSISA's own national survey on citizens' perceptions about natural resource and transparency, Angolans are under-informed about the massive amount of money generated by the extractive industries and about the massive amount that is siphoned off.<sup>98</sup> Few Angolans make the link between poverty, oil revenue distribution and high-level corruption. When asked what problems the government should resolve in the near future, poverty and unemployment were at the forefront of people's concerns – not transparency or corruption.

Therefore, an economic empowerment programme at the local level should start here – by addressing community concerns about poverty and unemployment and making the linkages to unfair oil revenue distribution. Arming communities with knowledge about their economic and social rights, their rights to access information (and how to access this information), their public entitlements and the realities about oil revenues would help to foster a genuine national debate on the oil industry and generate public demand for the fairer distribution of its wealth and benefits.

## ANGOLA AND DUTCH DISEASE

**Broadly speaking, Dutch Disease refers to the decline of other economic sectors — usually manufacturing and agriculture — associated with the increased exploitation of natural resources. The basic premise is that increased resource revenue will inflate the value of the local currency and make other exports less competitive, while at the same time, economic emphasis on that sole sector will undermine development in other sectors. Angola is vulnerable to Dutch Disease – as are other oil producers that are dependent on oil-backed consumption booms, especially when oil prices decline. In the summer of 2009, Angola turned to the IMF because the plummeting price of oil was threatening the country's balance of payments.**

Nigeria is a classic example of a resource boom gone wrong. A narrow economic focus on oil exploitation through the latter half of the last century led to a steep decline in agriculture and other economic sectors – with the result that the country's GDP today is actually in the range of what it was in the 1960s. While there has been little net gain in overall national wealth, considerable wealth has been – and is being – generated but it is concentrated around the oil industry, leaving the vast majority of the country much worse off than before the resource boom. Conversely, Norway is cited as a role model for avoiding Dutch Disease. The Norwegian government has used its resource rents to expand the public sector, adopted labour market policies to avert a decline in the manufacturing sector, and set up the Government Pension Fund – a sovereign wealth fund – with some of its oil profits.

In Angola, avoiding Dutch Disease would entail constraining political patronage, increasing public spending, and growing the non-oil economy. However, currently, the government doles out oil-backed patronage to a small number of supporters, rather than delivering proper public services to the population as a whole. Public spending from oil revenues is centred on large infrastructure projects with a low rate of return and shady procurement processes – with few funds going toward social spending and households. Growing the non-oil sector – agriculture, in particular – does feature

in public discourse, but the government is doing little to incentivise growth.

### SOVEREIGN WEALTH FUNDS

Many resource-rich countries and regions have established sovereign wealth funds and stabilisation funds to combat Dutch Disease. The idea is to set aside part of the earnings from oil production, which can be invested abroad or held in bonds and which can be drawn from when oil income falls.<sup>99</sup> When asked how to avoid the booms and busts of the commodity cycle, Chile's Finance Minister said, "Spend that which is permanent and save that which is transitory."<sup>100</sup>

In November 2008, President dos Santos announced the creation of Angola's own sovereign wealth fund, Fundo Soberano Angolano (FSA), which was praised by the IMF. In theory, the FSA will be sourced from oil revenues, specifically from all revenues over US\$58 a barrel. It is expected that the FSA will replicate the investment strategy of Norway's Government Pension Fund by purchasing small stakes of common stock in international companies – and the Norwegian government has supported Angolan in planning this.

Yet the FSA is no guarantee against corruption. Indeed, it could just perpetuate corruption if it is not set up with appropriate accountability mechanisms in place. As it stands, the FSA would be accountable to the

president. Additionally, Sonangol already operates much like a sovereign wealth fund by reaping money through dubious oil-related transactions and investing it around the world. For example, China Sonangol is a joint venture between Sonangol and private investors based in Hong Kong, and the company has committed itself to investing billions of dollars across Africa, Latin America and Southeast Asia. Until September 2011, Manuel Vicente (the Chairman of Sonangol) served as the Chairman of China Sonangol. Where the Angolan government is concerned, keeping money outside the country is hardly a guarantee of transparency. So, if not a sovereign wealth fund, what then?

As mentioned earlier, constraining Angola's political patronage will involve setting up systems to contain corruption and ensure transparency and accountability. These checks and balances include the transparency of public revenues and expenditures, a free and informed media, an informed citizenry and a vibrant civil society. But public officials in Angola are currently benefiting too greatly to set up legitimate checks and balances, while the government is doing little to invest in social spending and ensure a fair distribution of oil revenues. Finally, the Angolan government could take broad steps to grow the non-oil economy, but seems unwilling to do so and risk relinquishing economic control.

## DIVERSIFYING THE ECONOMY

Diversification of oil-dependent economies is of great concern to new oil producing countries across Africa, such as Uganda and South Sudan, which are looking to their peers in Algeria, Mauritania, Botswana and South Africa for successful diversification strategies. Diversification of Angola's economy would not only reduce Dutch Disease, it would reduce rent seeking and spur the

development of impartial institutions. Economists, such as Paul Collier, point to three policies to grow the non-oil economy<sup>101</sup> - namely de-tax the non-oil economy, encourage SMEs and support the agricultural sector.

The private sector in Angola remains excessively regulated in order to facilitate taxation. The corporate income tax is 35 percent. But Angola does not need to raise tax revenue from sectors other than oil and diamonds. Deregulation would support the growth of micro, small and medium-sized firms.

Support for SMEs would not only diversify the economy, it would create employment, and grow the economic and political power of the non-oil private sector. Interestingly, the government recently announced that it would distribute some US\$220 million as investment credits for SMEs and provide incentives and training – through the newly created Programme for Development of Small and Medium Enterprises. The funds will be made available to the two state banks to support small businesses. Although a positive step, it is unclear how the programme will be operationalized, or how it will fit into the approved national budget.

Oil and war explains why once big employers, such as coffee, cotton and maize, have been neglected since independence. Oil production is an enclave economy in Angola with few links to the rest of the economy. Before oil took over as Angola's primary export in the early 1970s, Angola depended on agricultural products, such as coffee, sugarcane, bananas and palm oil. These provided a great source of employment and the country was self-sufficient in most foods. Today, the agricultural sector accounts for less than 10 percent of Angola's GDP and the country imports about 80 percent of its consumable

goods. Unreliable electricity, poor transport networks, and limited access to finance have pushed up the cost of local production, so that it is still cheaper to import goods at skyrocketing prices than it is buy them from local sources. Small-scale farmers have reverted to subsistence farming, and two thirds of the population is reliant on subsistence agriculture for food, income and employment. As such, development of the agricultural sector holds far greater importance for the majority of people than the oilrigs offshore.

The Ministry of Agriculture has stated it is keen to encourage colonial-era 'cash crops' alongside essential staple crops for domestic consumption. And a US\$1.2 billion loan from the China Development Bank in 2009 was supposed to finance agricultural development over the following four years. But it is unclear whether this financing even came through – let alone what it might have been used for. What is more, while the country relies heavily on food imports, the government has set its sights on the development of biofuels – calling into question the allocation of fertile land for crops that are not intended to produce food for domestic consumption. In March 2010, the government passed a law regulating the country's biofuel industry. The law stipulates that foreign companies producing biofuel in Angola will have to sell some of the product to Sonangol to supply the local market.<sup>102</sup>

Finally, with Angola importing huge amounts of food for domestic consumption it has been claimed that various members of the political elite have heavily vested interests in the importation business. These powerful individuals stand to lose from Angola growing increasingly self-sufficient in food.<sup>103</sup>

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## RECOMMENDATIONS

### 1.

#### PROMOTE PUBLIC DEBATE AND CIVIC ENGAGEMENT ON TRANSPARENCY

At the forefront of OSISA's mission is opening spaces for civil society participation. The Angolan oil industry is shrouded in secrecy and Angolans have the right to know exactly where government oil revenues and expenditures are going. However, some information is publicly available but citizens may not be accessing it or may not know how to access it. Roving town hall meetings, which create open spaces for debate and participation both in Luanda and across the country, would stimulate discussion and the provision of information about transparency, oil impacts and citizens' right to know laws. These meetings would also promote active civic engagement – such as citizen groups to promote citizen-led legislation to be taken up by the National Assembly.

### 2.

#### PROMOTE CITIZEN-LED CALLS FOR FAIR DISTRIBUTION OF REVENUES

Civil society should advocate for the government to pursue sustainable development, which prioritises the fair distribution of revenues and the investment of these revenues in income and employment generating sectors, like agriculture, to diversify the economy. It will be necessary to start by producing economic studies on the cost of living in oil-producing regions in comparison to other provinces, and viability studies on economic alternatives for the country – and to fully understand how much revenue is being generated by the oil industry and how much of it reaches the provinces.

### 3.

#### STRENGTHEN IMPLEMENTATION OF CURRENT LEGISLATION

There is nothing in Angolan legislation that protects illegal acts in business. Laws relating to public corruption, in particular, are quite clear. Angolan citizens have at their disposal a series of laws with which to push back against economic, environmental and public corruption. If the authorities do not want to enforce the law, it is up to citizens to use the laws and litigate. Understandably given the partiality of Angolan courts, enforcing accountability through judicial means has been underutilised up until now. The Angolan Constitution

may provide for an independent judiciary, but in practice the judicial system lacks the means, experience, training and political backing to assert its independence. Nonetheless, lodging citizens' complaints could help to foster widespread societal support for the rule of law. Of equal importance, the mere act of filing complaints would send a message to those culpable of public corruption. This strategy should be coupled with a strong media component. This programme would entail training a small group of lawyers, legal scholars and law students to jump-start the process.

### 4.

#### PROMOTE MECHANISMS TO HOLD SONANGOL TO ACCOUNT

Sonangol wields tremendous political and economic influence in Angola – and increasingly, Sonangol is expending its business interests both inside and outside the country. There is an obvious conflict of interest in relation to Sonangol since it both administers and regulates the oil sector. There has been concerted pressure on the government for years to address this conflict of interest. However, this pressure has largely been external – from foreign governments and donors, such as the IMF under its stand-by arrangement loan to Angola. More recently, there have also been efforts to expose Sonangol's business operations. But there has not been a concerted push inside Angola to expose Sonangol and call for a major overhaul of its structure – such as demanding the creation of an independent regulator for the oil industry. Similarly, there has not been a concerted call for Sonangol's audits to be made public. Elevating these discussions in the national discourse would work in tandem with current international advocacy efforts.

### 5.

#### EXPAND ANGOLAN TRANSPARENCY DEMANDS INTERNATIONALLY

The US authorities have softened their public stance on government corruption in Angola recently either because of a conflict of interest with US business interests in Angola, or a perceived decline in their influence in Luanda, or the lack of a strategy, or a general disinterest in engaging. However, the reality is that – although the Angolan government has smartly positioned itself vis-a-vis a range of public and private actors – the US government still retains considerable leverage in the country. Angola must be put back onto the agenda of US government officials who can ruffle the feathers of their Angolan counterparts merely by asking questions, holding hearings or making public statements. It should also extend to

aid – namely channelling USAID funding to democracy and governance initiatives. This strategy will ensure that issues of transparency and beneficitation are always on the agenda when it comes to US–Angola relations. However, advocacy should also extend to the governments of other countries, whose companies are engaged in Angola, such as Norway, to provide grants to civil society organisations to promote fiscal transparency and monitor revenue flows.

## 6.

### PROMOTE MECHANISMS TO HOLD MULTINATIONALS TO ACCOUNT

There have been a few local and international efforts to shine a spotlight on the practices and policies of multinationals operating in Angola – such as OSISA’s participation in the True Cost of Chevron Network, international transparency campaigns by groups like Global Witness and direct engagement between Cabinda residents and Chevron. However, multinationals in Angola continue to operate with total impunity. The promotion of mechanisms to hold multinationals to account would include the provision of information about their activities, production levels, impacts and resources they channel to government – as well as building bridges to engage company officials directly.

## 7.

### STRENGTHEN INSTITUTIONAL CAPACITY

Angolan institutions with a mandate to regulate the industry are weak. They lack trained, skilled employees, who understand the laws and can implement them. This work would focus on providing members of the National Assembly and some of its critical committees, as well as key institutions, with access to credible information and technical assessments, as well as advice on how to utilise existing information – including Angola’s own laws – in an effort to enhance oversight.

## 8.

### PROMOTE USAGE OF INTERNATIONAL ANTI-CORRUPTION INSTRUMENTS

Anti-bribery, money laundering and corruption laws, like the US Foreign Corrupt Practices Act, the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions and various EU laws are important tools for holding corrupt public officials to account, and holding

companies based in those countries to account. Information gathered from investigative reports could be passed along to security commissions and departments of justice to hold multinationals and Angolan elites to account. Building on Dodd-Frank requirements, international advocacy would also include calling on financial institutions to harmonise transparency requirements for extractive industries in major stock exchanges.

## 9.

### PROMOTE ANGOLAN-LED, MEDIA-DRIVEN INVESTIGATIVE REPORTING

When in doubt, follow the money! Global Witness, Human Rights Watch, the Centro de Estudos e Investigação Científica da Universidade Católica de Angola, and Angolan transparency activists have performed impactful investigative and documentation work on public corruption, and have utilised the media as a tool for strategic dissemination. There is tremendous need for additional investigative reporting and exposés on the oil money trail. Where are Angolan elites investing? Where are these companies doing business? Which banks are holding these funds and which are issuing lines of credit? A small team of Angolan-based, professionally-trained, low-profile, dedicated investigators could uncover additional information to buttress national and international transparency initiatives and advocacy campaigns.

## 10.

### PROMOTE ALTERNATIVE REPORTING AND ACCESS TO INFORMATION

Public access to information in Angola is challenged by the government’s control of traditional mechanisms of mass communication. Although not a focus of this report, social media has served as an important organising tool and as a great equaliser with regards to access to information. Urban-based Angolans, in particular, are increasingly using Facebook, Twitter and texting. A guerrilla marketing or wild postings campaign could also be effective in Luanda. [Guerrilla marketing is an advertising strategy that utilises unconventional means to generate buzz. Wild postings are temporary, highly engaging forms of street-level advertising]. In the provinces, the provision of independent radio programmes could be expanded and it could include political and economic literacy programming on the oil industry. Similarly, video is a powerful medium with which to reach a broad audience. Advocacy videos on Angolan inequities are few, and even fewer are videos that can break down the numbers for people and juxtapose the riches of Angola’s elites with living conditions across the rest of the country.

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*Millions of dollars are being diverted from the state treasury, either through institutionalised or straight up corruption.*

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## CONCLUSION

Angola's oil production drives an enclave economy that enriches wealthy political elites and leaves the masses in dire poverty. Sonangol exerts undue political and economic power, and institutions to provide checks and balances are weak. Sonangol is accountable only to the president. There is an obvious conflict of interest in that it both administers and regulates the oil sector. The company's transactions with the national budget are porous and allow for state funds to be siphoned off. Millions of dollars are being diverted from the state treasury, either through institutionalised or straight up corruption. Angolan elites and public officials are reaping huge profits from the legal obligations of multinational companies to contract with Angolan companies. Multinational companies, for their part, turn a blind eye to corruption. Oil revenues, which should be invested in social sectors and in diversifying the economy to support

the country's long term sustainable development, are instead reinvested by Sonangol in joint ventures and subsidiary businesses, which benefit just an elite few. Environmental impacts of the industry go largely unmitigated, while communities in oil producing provinces receive no real benefits.

A well-functioning governance system involves political, economic and legal constraints designed to limit misconduct by those in power. In Angola, people are poor because the country's institutions are dysfunctional and have not provided the needed checks and balances. Corruption is just a symptom of the deeper malady of weak, failed or missing institutions. A kleptocracy is unlikely to reform itself voluntarily. It must be prodded. Even if the government does change, it may not be replaced by a better one unless sound governance institutions

are put in place. Recent events in Angola show that if the circumstances are right, external actors can help to kick-start the process of reform. NGOs, international organisations, and some foreign governments have all played a role in pressing the Angolan government to make itself more open. In initiating the process of building checks and balances, pressure from overseas complemented the activities of Angolan civil society. Transparency is necessary for accountability. But the ultimate constraint on any government – democratic or authoritarian – is its citizenry, the power of the people. Transparency informs the citizenry of abuses. It does not in and of itself solve corruption, but it goes a long way towards speeding up the search for a solution. By building up knowledge, and broadly disclosing information, about government misdeeds, transparency can empower the citizenry to take action.

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## LIST OF ABBREVIATIONS

APESCAB	Associação dos Pescadores de Cabinda
API	Angola Partnership Initiative
BAI	Banco Africano de Investimento
BNA	Banco Nacional de Angola
CEO	Chief Executive Officer
CITIC	China International Trust and Investment Corporation
CRS	Corporate Social Responsibility
DFID	Department for International Development
DOJ	Department of Justice
EIA	Environmental Impact Assessment
EMS	Environmental Management System
EITI	Extractive Industries Transparency Initiative
FCPA	Foreign Corrupt Practices Act
FSA	Fundo Soberano Angolano
IMF	International Monetary Fund
IMT	Incident Management Team
IPA	Instituto de Pesca Artesanal e Aquicultura
MPLA	Movimento Popular de Libertação de Angola
Minpet	Ministry of Petroleum
NGO	Non-Governmental Organization
NPD	Norwegian Petroleum Directorate
OPEC	Organization of the Petroleum Exporting Countries
PAH	Polycyclic Aromatic Hydrocarbons
PLD	Presidential Legislative Decree
PSA	Production Sharing Agreement
QFA	Quasi-Fiscal Activities
SADC	Southern African Development Community
SEC	Securities and Exchange Commission
SIIND	Sonangol Investimentos Industriais
Sinopec	China Petroleum and Chemical Corporation
SME	Small and Medium Enterprises
Sonangol	Sociedade Nacional de Combustíveis de Angola
Sonip	Sonangol Imobiliária e Propriedades
SSI	Sonangol Sinopec International
UK	United Kingdom
UNDP	United Nations Development Program
UNFCC	United Nations Framework Convention on Climate Change
UNITA	União Nacional para a Independência Total de Angola
US	United States of America
USAID	United States Agency for International Development
VOPESCA	Voz do Pescador

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