Congo Research Group and Resource Matters

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Inga III: Kept in the Dark

How the World's Largest Hydropower Site is Being Negotiated Behind Closed Doors

CONGO RESEARCH GROUP
GROUPE D'ÉTUDE SUR LE CONGO

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resource matters

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Executive summary

In October 2018, the Congolese government signed an agreement for the Inga III project with two international consortiums. After years of waiting, the largest hydropower site in Africa, costing approximately 14 billion dollars, could feasibly be operational by 2028, according to optimistic forecasts. However, the way the project is currently being conducted raises a number of concerns related to transparency, management, inclusion, and public information. In addition, a large part of civil society has expressed its concern about a project that may not meet the expectations of the Congolese population, 80% of whom do not have access to electricity.

For some, including the Congolese government and the defenders of the project, Inga III is a project of the future, an integrative project, supported by the African Union through its Development Agency, formerly known as NEPAD. It is a project with several axes and which takes into account economic, domestic, and external partners' needs.

For others, Inga III is a project that will mostly benefit foreign companies and states. Its main goal is to export energy, either to South Africa, today's favored candidate, or to Nigeria and Angola, tomorrow's prospective clients. In the current plan, less than one third of the electricity generated will be used in Congo and it is not clear how this electricity will be distributed between the population and the mining industry.

This ambitious project must be revisited to ensure that the Congolese population benefits from it. For the time being, the main promoters of the project promise that the advantages will be mainly tax-related. But these may not benefit Congolese because of the high level of corruption in the country. In particular, the Congolese government should ensure that a significant part of the electricity can serve the general population.

These fundamental deficiencies are closely linked to the project's institutional problems. In 2015, President Joseph Kabila decided to remove the Inga III project from the government's remit and assign it to the president's office. The most direct impact of this decision was the World Bank's withdrawal from the project. This is potentially what a part of the Congolese political elite was looking for, in order to have their hands free to select the Inga developer, and circumvent terms and conditions they considered cumbersome.

This decision greatly weakened Congo's position and delayed the whole process. On the one hand, it cut the funding for several critical studies, and deprived the Agency for the Development and Promotion of Grand Inga (ADPI) of its operational resources. ADPI is the institution in charge of dam management, whose staff spend a considerable amount of time looking for alternative funding for operational expenses. This lack of support also deprived the country of the legal and technical expertise needed to protect the interests of the people against private investors. Political heavyweights limited recourse to a broad variety of international experts, including various experts from relevant ministries, as well as the participation of the Congolese population itself, parliament and local civil society..

Félix Tshisekedi's new government must act quickly to take back control of the Inga III project - probably the most expensive infrastructure project in the country's history - and adopt an inclusive and transparent approach. Moreover, either from external funders or its own resources, ADPI would be well advised to obtain the required expertise in order to address the imbalance between stakeholders around the negotiation table. For the time being, ADPI seems to have endorsed investors' plans without any real independent counter-study. The agency cannot and should not play such a complex role on its own.

Inga III – An Ambitious, Complex, Controversial and Divisive Project

The Inga site, on the Congo river, is a dream for big infrastructure project enthusiasts and hydroelectric power supporters. With a total potential capacity of 40,000 megawatts (MW), Inga III is home to the largest hydroelectric potential in the world. With the Inga I (351 MW) and Inga II (1,424 MW) power plants, built in 1972 and 1982, respectively, less than one twentieth of this potential has been developed to date.[1] On a national scale, Congo exploits only 2% of its total energy potential.[2] Inga's supporters therefore see its development as a golden opportunity to significantly increase the energy supply not only for Congo but also for a part of the African continent. However, Inga III will only be built on condition that a bankable customer undertakes to support it. And, in the eyes of the private investors who will come forward to develop and operate the project, bankable customer means mines or exports, given the poverty of the Congolese population and the management problems of the national electricity company (SNEL).

However, Inga III remains a controversial project that is not viewed favorably by national and international NGOs.[3] These players find that the there is a lack of transparency surrounding the implementation of a project which is detrimental to the environment and to local communities. They also believe that the country does not need such a large project but rather that medium-sized power plants would better suit the needs of the population.[4] In addition, the project is perceived as being intended solely for export and not for the benefit of the Congolese people.

A Project in Search of Clients

Inga III is expensive and requires heavy investment. For it to be financially viable, customers must be able to pay for the electricity that will be produced. The Congolese government and potential developers therefore need to find solvent buyers or consumers, despite the strong domestic demand.

Indeed, the World Bank estimates that around 65 million Congolese, or more than 4/5 of the population, do not have access to electricity.[5] According to SNEL statistics, in half of the provinces of Congo, the electrification rate does not exceed 3%.[6]

In some Kasaï provinces, where power lines connect Inga I and II in the west to the south-eastern mining regions, less than one in 200 persons have access to electrical power.[7] In large cities, like Kinshasa and Lubumbashi, millions of inhabitants cook their meals with firewood and use flashlights or candles for light.

In spite of these local needs, the various planning schedules for Inga III and its later phases mainly aim at exporting the power produced, in particular for economic reasons. While Inga I was meant to supply the nearby steel industry (at least on paper), and Inga II to power the former Katanga mining sector, the consumers targeted by Inga III are mainly located outside the country.[8] "We must remember that power is a commercial commodity," declared Minister of Energy and Hydraulic Resources Ingele Ifoto in 2018, referring to Inga III.[9] "It is exportable."

In this context, when the African Development Bank (ADB) commissioned studies from EDF and Lahmeyer between 1993 and 1997 for the development of Inga's next phase, "energy highways" across the continent were considered.[10] The most concrete avenue at the time was the one developed by the Western Corridor (Westcor), a consortium set up by governments and electricity companies from five southern African countries in October 2004.[11] Created under the aegis of the Southern African Development Community (SADC) and the Southern African Power Pool (SAPP), Westcor looked at constructing a 3,500-MW Inga III power station and transporting its electricity through south-western Africa, crossing Angola, Namibia, and Botswana before reaching South Africa.[12]

From 2008, the ADB funded the AECOM/EDF consortium for a second study[13]. In September 2013, in Kinshasa, once the study was completed, the consortium presented a new approach for the development of the next stage of Inga III entitled Inga III Basse Chute [Low Head], with 4,800 MW – 1,300 MW more capacity than the Westcor plans (3,500 MW), and designed as the first phase of the Grand Inga project.[14]

Meanwhile, Congo gradually began to turn to BHP Billiton, a mining giant looking to turn bauxite from the Boffa mines (Guinea-Conakry) into alumina in Congo.[15] BHP suggested the construction of an aluminum smelting plant in Bas-Congo powered by 2,000 MW generated by the future Inga III power plant.[16] In the end, BHP dropped its Guinean bauxite and Congolese smelting plant project in 2012 due to adverse trends on the aluminum market.[17]

Even before BHP's withdrawal, Westcor also lost heart in the project. The company did not manage to obtain funds to launch the project studies or approval from the Congolese government for the memorandum of understanding supposed to result in the signing of a Funding Agreement.[18]

Although Westcor was abandoned, its most important member, South Africa, is still looking to Inga III Basse Chute for its future electricity supply. South African electrical demand is far higher than in the region's other countries, and the "energy highway" between Congo and South Africa already exists, running through Zambia along the east rather than the west side of the continent.[19] South African electricity company Eskom is still managing to meet South African demand with its installed capacity of about 43,000 MW.[20] Nonetheless, in the long run, the coal supply most of its current production relies on will be insufficient, too expensive and polluting.[21] As a result, South Africa is looking for alternatives for its thermal power, whether local renewable energies, nuclear power or importing hydroelectric energy from Congo or elsewhere. Although, in view of the recent Guptagate scandal[22] and negative financial results, Eskom's credibility can be seriously questioned, the South African company remains the main bankable guarantee for Inga III, as long as the project is carried out within an acceptable timeframe and budget for the Republic of South Africa.[23]

In November 2011, a few weeks before the presidential elections leading to President Kabila's second term, his counterpart President Jacob Zuma met with him to sign a memorandum of understanding relating to the Grand Inga project.[24] In October 2013, South Africa and Congo signed the Grand Inga Treaty, in which South Africa commits to purchase 2,500 MW out of the 4,800 MW of Inga III expected capacity.[25] South Africa also benefited from the option of purchasing between 20% and 30% of the power generated by the successive stages of Grand Inga.[26] The Congolese president only ratified the treaty 18 months later, meaning that it did not enter into force until March 2015.[27]

In second position comes the electrical supply of the Katanga mining industries, suffering from a growing shortage of electricity following the mining boom over the past fifteen years. According to the EDF/AECOM design, 1,300 MW would be dedicated to the industry.[28] However, turning a fragmented mining market into a single client remains a challenge, which explains why the sector has adopted a more wait-and-see attitude.[29]

Meanwhile, the Congolese people would only benefit from 900 MW – one fifth of the production, or less (600 MW according to the World Bank) with a more conservative approach.[30] The non-governmental organization International Rivers estimates that with electricity losses, this share could even be reduced to nothing.[31]

For the authorities in charge of the development of Inga III, the project can only be understood within the framework of a wider overview for Congo. According to this approach, access to electricity for the Congolese population would be achieved mainly through other investments in power stations of small and average size, while Inga III would serve the needs for the mining, manufacturing, and processing industries,[32] while at the same time generating new revenue streams for the Treasury through exports.[33] This should enable the funding of the construction of other sites, more moderate in size, according to the Congolese in charge of the file.[34]

Interest From Developers

Other stakeholders have taken an interest in this ambitious project – not so much as power purchasers, but as developers and operators of the site. For some big multinational companies specialized in hydroelectricity, Inga not only represents a profitable project, but also a perfect opportunity to display their technical expertise, to the extent that certain engineers have made it their professional hobbyhorse.

When Congo launched a call for expressions of interest in October 2010 for development of the Inga III version proposed by BHP at the time, an ad hoc commission made up of experts from different ministries pre-selected six groups of developer candidates, including heavyweights from the industry.[35] Only three of them ended up submitting a strategy for Inga, namely ACS and AEE Power (Spain), Three Gorges corporation (subsidiary of CWE) and Sinohydro (China), and the SNC-Lavalin-PoscoDaewoo group (Canada-South Korea).[36] However, the latter was subjected to World Bank debarment and subsequently excluded from participating.[37]

The two remaining groups include giants of the hydroelectric industry. On the one hand there is ProInga group, usually referred to as "the Spanish," a consortium whose composition has evolved over time, which has diverse expertise mainly from big Western companies. It includes the Spanish group Actividades de Construcción y Servicios, a construction giant whose annual turnover exceeds €30 billion,[38] and whose subsidiary Cobra alone employs more than 35,000 workers in 60 countries.[39] When the offer was submitted in late 2016, it also included the German group Andritz, manufacturing 60% of hydroelectric plants in Africa, MWH, an American leader in hydroelectric engineering, as well as Macquarie, a world-class leader in project finance, and Herbert Smith Freehills, a law firm specialized in the field.[40] But the real driver of the group remains the Spanish company AEE Power, much smaller on a global scale but very present and well-integrated in Congo, where it was running six ongoing projects amounting to about 90 million dollars with various forms of funding (World Bank, African Development Bank, company equity, etc.) at the time the offer was submitted.[41]

On the other hand, there is the "groupement Chine d'Inga" [China Inga group]. Its leader is Three Gorges Corporation, the contractor of the dam of the same name, the biggest worldwide. As part of this consortium, Three Gorges has long been partnered with PowerChina/Sinohydro, a company already established in Congo within the scope of the "infrastructure for minerals" deal, and active on the hydroelectric scene on the Zongo II (Kongo Central province) and Busanga (Lualaba province) sites.[42] In the meantime, a new partner joined the discussion: the Changjiang Institute of Survey, Planning, Design and Research, which took part in the Three Gorges project's design and planning.[43]

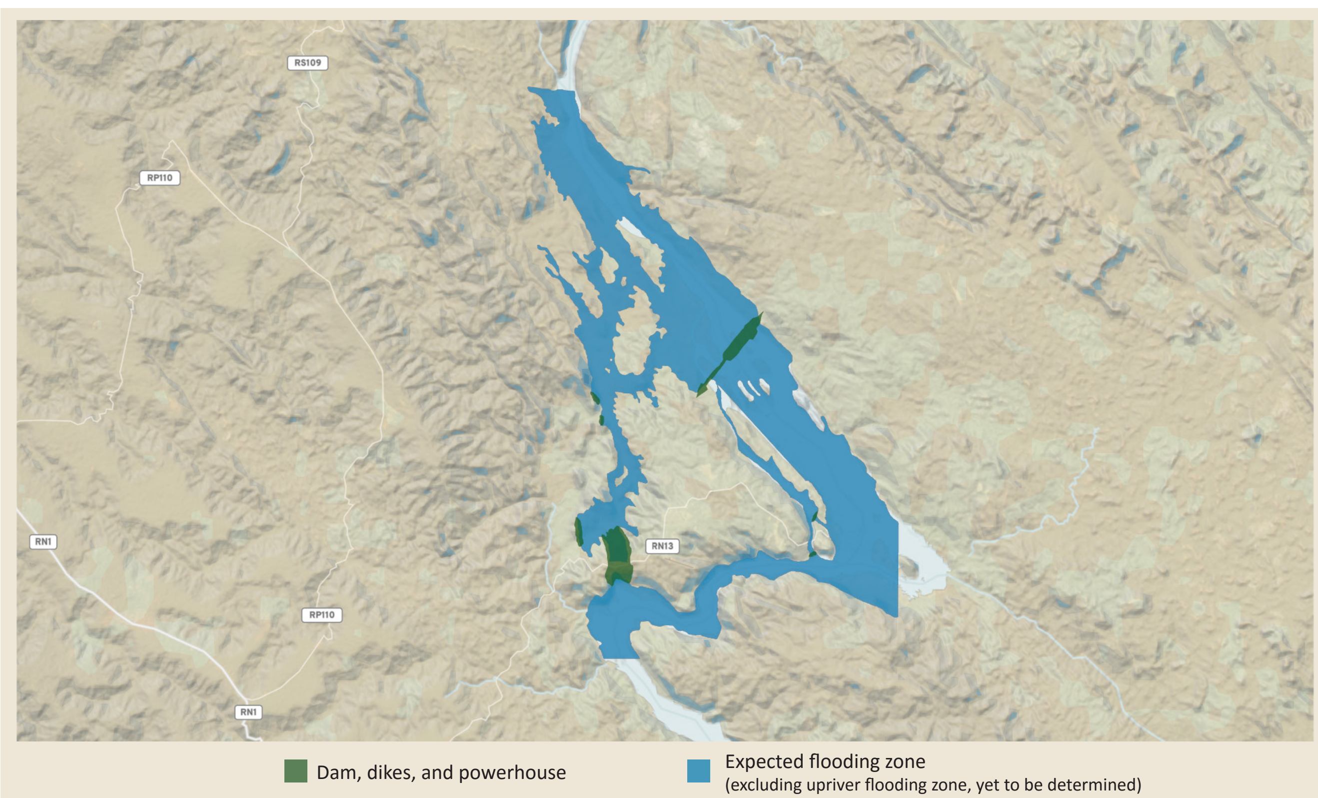
In spite of their interest in the project, it is still too early and too risky for the developers to invest substantial sums to finance feasibility and impact studies during the preliminary phase of the invitation to tender and to support ADEPI. To reduce the risks, developer-candidates suggested that the successful candidate would refund the expenses incurred by the other bidders, which would have enabled them to make more substantial investments.[44] But the Congolese government did not approve this solution.

At the end of the day, further studies – including social and environmental impact studies, hydraulic and geological studies – and orchestration of the project progresses will all fall upon Congo. To this end, an arsenal of human, technical and financial resources is needed, all the more because when faced with such powerful stakeholders (the biggest regional power and multinational companies with the best engineers, lawyers and bankers), Congo has every interest in also being surrounded by a strong team to defend its own positions.

From a Multi-stakeholder Dynamic to a Presidentially-led Project

From the outset, the Congolese authorities wanted to play the card of openness by setting up several frameworks for dialogue and exchanges with all the stakeholders concerned by this project. Policy makers, financial backers, international and regional organizations, national institutions, and civil society met regularly to follow the project and to make proposals.

This participatory approach was highly appreciated by the stakeholders, but gradually changed and eventually migrated towards the setting up of a structure that depended solely on the Congolese presidency.



2009-2015: a Participatory Approach Backed by International Funders

Several international organizations incorporated Inga III in their programs as they considered it to be a unifying project and a driving force for development at the continental level. As part of the Programme for Infrastructure Development in Africa (PIDA),[45] international financial institutions supported technical studies for developing the next stages of the Inga project and assisting DRC in selecting a developer-investor.[46]

In 2009, the government appointed these organizations as observers within the Inga steering committee, whose full members were mainly senior civil servants from the Congolese administration.[47] A couple of years later, the World Bank and the ADB approved a 106.5 – million dollar project, including 80.9 million for Inga III – the remaining share would fund medium-sized dams in other regions of Congo.[48]

The funders' objective was primarily to finance a series of studies to complement those led by EDF/AECOM in order to confirm the geotechnical feasibility of the project, assess and attenuate the adverse social and environmental impact of Inga III, repair the damage caused by Inga I and II,[49] and better understand the electricity market for communities and small and medium-sized local businesses.[50]

Next, half the budget was allocated to the project's legal and financial structuring. This was supposed to include the adoption of the Inga law, the definition of ADPI's mandate – which, in this form, would never see the light of day –, the design of the fiscal regime applicable to the project, and the organization of the tender process, from selection of the concession holder to conclusion of power purchase agreements (PPA) with prospective clients.[51] The objective was to level the playing field between, on the one hand, developer-candidates and South Africa and, on the other hand, Congo as the licensing authority, in order to avoid the experience of the unbalanced contracts previously signed in the mining industry.[52]

Finally, the project aimed to support ADPI by paying operating costs, wages, equipment, the organization of workshops, and other activities led by the project's driving entity.[53]

For the funders, this project was not risk-free. In order to avoid the experience of opaque contracts and misuse of funds observed in the mining industry, they conditioned their support on certain indicators of good governance and transparency.[54] In November 2013, at the funders' request, Prime Minister Matata Ponyo Mapon sent a policy letter to reassure them that the government would adopt a deliberately transparent and open approach.[55] In this letter, he promised that the ADPI would quickly be in place, that the electricity would be properly divided up with an equitable balance between project bankability and the population's needs, that there would be public-private partnership project management, and a competitive and transparent developer selection process. The letter also promised to define a fiscal and price framework prior to launching the call for proposals, and respect of social and environmental standards.[56]

The government initially complied with these various commitments. In mid-2013, it set up an institutional system for political, technical, and public coordination:

- Commission for the Development of the Inga Site (Codesi) in charge of interministerial coordination[57]
- Inga III Project Management Unit (CGI3), composed of technicians from the Ministry of Energy and Hydraulic Resources and in charge of project implementation[58]
- Inga Facilitation Committee (CFI) responsible for overseeing the works[59]

Under the aegis of CGI3, numerous meetings were held to allow discussions between, on the one hand, the main funders, prospective buyers and groups applying to develop the project and, on the other hand, the government's technical, financial, and legal advisors in order to reach compromises on topics central to the project. The CFI met a dozen times between 2013 and 2015 to present project progress and gather reactions from stakeholders, including from civil society.[60]

Around the same time, pre-feasibility studies led by EDF/AECOM were presented to a multi-stakeholder audience in Kinshasa and Matadi between July 2013 and September 2013. These talks served to identify further studies to be led depending on the developer-candidates, including on the flood zone and numerous technical issues.[61] For its part, civil society raised concerns related to social and environmental impacts and the potential debt generated by the project. In consultation with the funders, CGI3 drafted no less than 11 terms of reference for social and environmental impact studies.[62] Nodalis, a French company specialized in consulting for emerging countries, developed proposals for a transparent and well-managed ADPI, and presented them for discussion.[63]

This multi-stakeholder dynamic enabled the association of multiple areas of knowledge to make this controversial project a reality. It also allowed the new project to incorporate changes related to the most frequent criticism in the wake of the experience of Inga I and II: the non-respect of community rights, the massive debt accumulated during and after the construction, and the many dysfunctions of the existing power plants.[64]

These participatory dynamics are not without difficulty for such a large, controversial project. Thus, in December 2013, the executive director of the American government aid agency, USAID, paid a visit to the Inga site and promised the financial support of the agency for the project. The first blow to the project nonetheless came from the American Congress which, under pressure from NGOs, added a provision to the budget law of January 2014 according to which "the secretary of the Treasury will give instruction to the executive director of each international financial institution according to which the policy of the United States is to be opposed to any loan, gift, strategy or policy which supports the construction of a large hydroelectric dam."[65] A decision which was to bring American support to an end and which, according to Bruno Kapandji, chargé de mission for the Agency for the Promotion and Development of Inga III (ADPI), would be the reason for the withdrawal of the World Bank from the funding of Inga III.[66]

2015: the Presidential Take-over

Beyond the withdrawal of the United States, collaboration between Congo and its financial backers presents other difficulties. The World Bank procedures were deemed protracted, and the condition for disbursements cumbersome.[67] The Kinshasa government feared interference in favor of the Western consortium ProInga to the detriment of the Chinese group, at a time when it was maintaining increasingly close connections with the People's Republic of China. Moreover, the contract between the Congolese government and its three consulting firms – Orrick (legal), Lazard (finance) and Tractebel (technical) – constitutes another source of tension. The government was apparently unaware of the remarks of the financial backers who considered the consultants' remuneration rates excessive. According to Jeune Afrique, the contract allowed for expenses to a total value of 18 to 25 million dollars.[68]

During 2015, the president's office set up parallel institutions to those established under the cooperation projects with the funders. In April, despite the existence of Codesi, the president's office implemented an informal structure called the Inga committee, composed of representatives from the president's office and the prime minister's office.[69] The goal seemed to be to control the CGI3 coordinator, deemed too close to the international financial institutions[70] and therefore suspected of being willing to condone their injunctions and conditionalities.[71] This factor contributed to the funders' confusion and frustration.[72]

The phase when parallel institutions were created was followed by the phase when the institutions established two years earlier were dissolved, and the president's office assumed control. In October 2015, the president's office took its strategy to the logical conclusion by instituting the ADPI-DRC – same name, different acronym – under its exclusive authority, thus bringing Inga back into a very restricted decision-making circle.[73] The same day, Joseph Kabila, then head of state, appointed an officer to run the institution – former Minister of Energy Bruno Kapandji Kalala. He has the rank of minister. The president dissolved the CGI3, ADPI's forerunner.[74] CFI also became non-operational at the end of 2015.

CGI3 staff were mainly transferred to the Coordination and Management Unit (UCM) at the Ministry of Energy and Hydraulic Resources,[75] in charge of almost all of the projects supported by international funders, except for Inga III.[76] ADPI and UCM simultaneously yet separately asked international funders to finance their operation. In the quest for funding, UCM, led by former CGI3 coordinator Maximilien Munga, proved to be far more efficient.[77]

According to Bruno Kapandji, the ADPI head officer and Henri Makap, the provincial operational director of Inga I and II 2016, the exclusive control over the project by the office of the president of the republic is the expression of DRC's sovereignty, as a state able to choose its own strategic options without any influence from foreign powers.[78]

If the goal was indeed to eradicate traditional funders' influence, it has been a total success. In March 2016, the vice-president of the World Bank addressed a letter to Congo's Minister of Finance Henri Yav, and ADPI Mission Officer Bruno Kapandji, to explain that the creation of ADPI under the supervision of the president's office was preventing the bank from awarding procurements and disbursing funds, unless the grant agreement was amended.[79] In the absence of any reply to this letter, the bank ended up suspending the project, then cancelling it.[80]

This reason given by the bank is unconvincing to Bruno Kapandji, the head of ADPI since October 2015. Mr. Kapandji ascribes the breach primarily to the American position relating to large hydroelectric dams, but also to the refusal of the Congolese government to let the World Bank take leadership of such an important project for the DRC and Africa.[81] Bruno Kapandji revealed to us that this desire for leadership was unacceptable for the African partners. In his opinion, Congo had taken Ethiopia as a starting point which, for the construction of its large Renaissance dam, had instituted an agency depending directly on the head of government. The same applies to the major Egyptian project on the Suez Canal, created at the time under the authority of President Nasser.[82]

The African Development Bank's position is more ambiguous. According to the ADPI director, the ADB would continue to support the project, particularly through the funding of updates for EDF 2016 and 2017 feasibility studies.[83] However, these studies turned out to be more or less obsolete given the project developments described below. In addition, the ADB seemed to prioritize other components of the project and only disbursed small amounts of funds for the Inga III project.[84] Only consultants, such as Orrick, kept on receiving funds.[85]

2016-2018: Lack of Funds Seriously Affected Project Management

The withdrawal of multilateral funders totally changed the project dynamics. ADPI was soon faced with financial and technical issues impeding the procurement process and the completion of necessary studies. Unlike the former structures, which demonstrated flexibility, the agency withdrew, breaking off ties with other institutions and the public. From then on, information on project developments would be released in dribs and drabs.

Lack of Resources

ADPI should have been financed by the funders' budget, which had provided for over $21.4 million for its functioning, staff and external advisors – leaving aside the external legal and financial support for drawing up legal documents, such as the Inga law and the exclusive cooperation contract with the developer.[86]

The president's office did not compensate this gap, and the government was not encouraged to allocate a significant budget to a structure it was excluded from. In 2017, Gécamines, which did not play any official role in the Inga project, transferred about $200,000 to ADPI as a life preserver for its operational costs.[87]

Before being able to proceed with the analysis of the offers submitted and to pursue dialogue with the candidates, ADPI asked both consortiums for authorization to use the premiums they transferred to the government when they submitted their offers in October 2016 – amounting to 3 million dollars.[88] In June 2018, ADPI again addressed both consortiums with a request for "the payment of the selection process costs borne by ADPI-DRC [and its advisors Orrick Tractebel and Lazard]."[89] Although the consortiums seemed to have agreed to the request, they specified that their financial support would have to be reimbursed at a later stage.[90]

In other words, ADPI was now asking for the financial support of entities it was supposed to negotiate with in total independence, after discarding funders' support precisely out of fear of foreign interference and undermined sovereignty. This request directly affected its bargaining power and threatened to lead to the type of unbalanced deal funders were seeking to avoid. The ADPI did not answer our questions on this subject.

The agency managed to raise limited funds, sufficient for its own functioning but definitely not enough for the several studies the World Bank was supposed to support. The recruited panel composed of nine dam safety experts left the country without conducting their studies, due to lack of funds.[91] The launch of social and environmental studies was suspended sine die, but did not prevent the government from signing an exclusive development agreement with the China Inga 3 and ProInga groups.

Several NGOs fear that the project will be carried out without the environmental impact being studied and taken into account. The framework law on environmental protection nonetheless requires impact studies to be conducted before any concession is awarded.[92] However, the two consortia are, for the moment, only "shortlisted concession holders."

Lack of Communication and Transparency

Another unfortunate consequence is that the initial participatory and interministerial dynamic is almost non-existent in the current ADPI context.

The two submitted proposals for Inga 3

The Constitution of the DRC stipulates that energy comes under the responsibility of the central government.[93] In 2017, the assignment of competencies to ministers allocated the development of electricity productive capacity to the Minister of Energy and Hydraulic Resources.[94] However, the prime minister, who took the initial lead in the project, is virtually excluded from any decision-making, while the sector ministry is also marginalized. The technical structures were also removed. This applies to CFI and Codesi.

The proposals submitted by the Chinese and the Spanish in late 2016 were assessed during a restricted retreat in Kwilu province. Only ADPI, representatives from Orrick (legal expert), Tractebel (technical advisor) and Lazard (financial advisor), and a few other guests were invited.[95] The workshop was therefore held in the absence of the other stakeholders, including the private sector and civil society. According to concurring sources, procurement and sector regulatory authorities were not involved in the process either.[96] Consequently, the selection of the developer candidate was now based on criteria unknown to the general public.

During this critical developer selection phase, the Inga project has thus been managed by only a handful of individuals. Mission officer Bruno Kapandji, appointed by presidential order with the rank of minister, reports directly to the presidency of the republic.[97] At the time of ADPI's establishment, the president's office was represented by a single man, the head of state's chief of staff, Néhémie Mwilanya Wilondja, who only reported to the president of the republic, without any government or parliamentary supervision. In practice, only Bruno Kapandji works on the project on a daily basis, aided by a couple of advisors.[98]

It is difficult to imagine how a single man, no matter how competent, could manage such a complex, technical, and important project for the country, especially in the face of the most powerful countries in the region and developers whose turnover far exceeds Congo's budget.[99] For ADPI, the project management mode does not pose a problem, in spite of financial difficulties related to the political situation of the past few years. Thanks to the backing of the ADB and their financial support to three partner consulting firms, the ADPI considers itself able to fully perform its mission, that its personnel is regularly trained and that the three consulting firms accompany it throughout the process.[100]

Since January 2018, the presidency has partially resolved this situation by forming an interministerial strategic committee in charge of supervising ADPI.[101] So far, we have not managed to collect evidence of its actual intervention given the government's absence from the main negotiations held in 2018.[102]

Lack of Support from Civil Society and Parliament

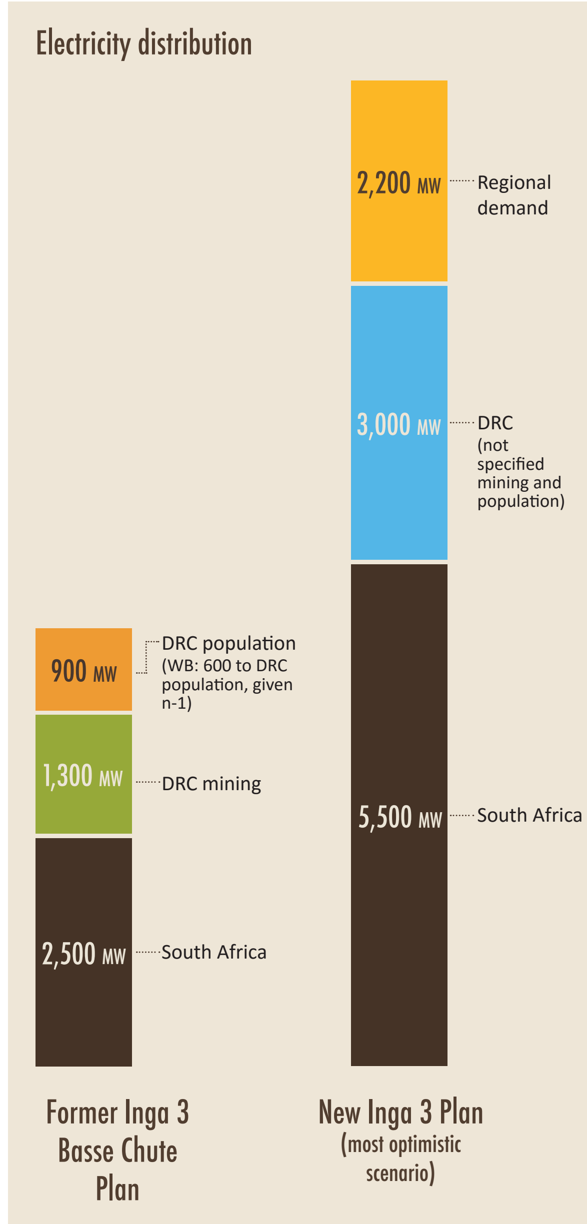
The Congolese public, particularly through civil society representatives who attended the project presentations in 2013 and were involved in the works developments through the Inga facilitation committee, has been kept at a distance ever since. Appeals for more dialogue have remained unheeded for several years.[103] From early 2017, several groups from civil society have initiated multiple calls for a moratorium on the developer recruitment process; a coalition of organizations even launched the campaign "No to Inga!"[104] A rare public meeting attended by Mission officer Bruno Kapandji and civil society organized by the Centre pour le Développement du Congo on November 6, 2018 did not manage to overcome this sense of exclusion and increasing mobilization against the project.[105]

A similar rejection of the project was visible in the Congolese parliament. Inga promoters expected the legislature to adopt the Inga law, an "attractive, legible legal regime adapted to international practices and Grand Inga issues and scale."[106] When the Minister of Energy and Hydraulic Resources attempted to introduce the draft law before the National Assembly in March 2018, it was rejected a couple of days later, without even being examined. The members of Parliament no longer saw the point of adopting a special law, and considered that they should not grant any special derogation to the common regime provided by the Electricity Law of 2014.[107] The Minister was disappointed by the rejection of the law, which was, according to him, required by the treaty signed with South Africa.[108] "National deputies need a lot of information," he acknowledged. "I think this is an educational effort. You can be sure that we will re-examine this decision. Because this project must be completed."[109]

Without waiting for this "educational effort," senator Siluvangi Lumba introduced a draft law to the Senate in February 2018, even before the draft law introduced to the National Assembly was rejected.[110] It is more brief than the one submitted by the minister of energy and hydraulic resources, and does not seem to be equipped to provide the robust legal framework that investors would need.[111] At the time of publication of the present report, this text is still under consideration by the new Parliament formed after the elections of

December 30, 2018.

For ADPI, some NGOs are not reliable partners because they adopt an ideological stance against the Inga III project to comply with their financial backers. The Agency considers moreover that if framework discussion meetings are no longer organized with civil society stakeholders, this is simply because there is no longer any funding for the purpose from the World Bank.[112]



An Unforeseen Development: Attempted Merger Between the Chinese and Western Consortiums

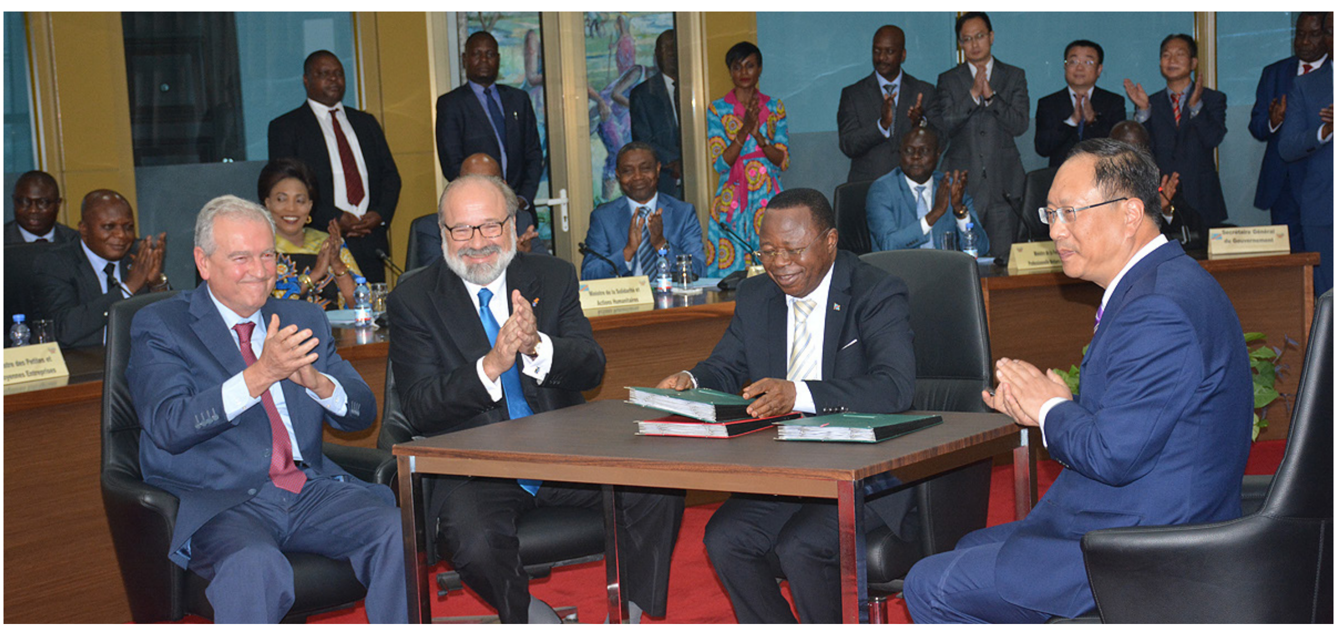
While the withdrawal of the World Bank made it possible for Congo to secure leadership over Inga III and to have a free choice of operator, an unexpected change in circumstances complicated the situation. At the submission of offers phase, ADPI found itself in a situation it had not anticipated: instead of being able to select one of two candidates, the agency had no choice but to request a merger between the two consortiums. Even though it was probably the only available solution, this state of affairs intensified the power imbalance between Congo and potential developers.

Towards a Single Consortium

After completion of candidate analysis sessions in Kwilu, in June 2017, ADPI asked both consortiums – ProInga and the China Inga 3 group – to submit a joint offer "considering their responses, the project challenges, and relevant market and demand developments."[113]

This decision came as a surprise to many, given the very different profiles of the consortiums, and signs indicating Congolese authorities' preference for the Chinese group.[114] The ADPI director had praised the skills of the Chinese companies, which, according to him, would be able to complete the project within four to five years, compared to the six years announced by their competitors.[115] Recall also President Kabila's highly-publicized trip to China in September 2015 to visit the Three Gorges dam, when he appeared alongside senior Chinese officials.[116]

So why this turnaround? Some observers interpreted it as a geopolitical gesture aiming to please both the Westerners and the Chinese by a president in search of international allies at a time when his legitimacy was being questioned. However, the real reason for the merger request was actually technical and financial in nature. Both consortiums seemed to have agreed on one point: the 4.8-GW Inga Basse Chute project proposed in the EDF and AECOM studies and funded by the African Development Bank would not produce an economically viable project.[117] The consortiums reacted differently to this insight.



The Chinese Inga III grouping was discouraged and did not submit a real offer. They only suggested revising the terms of the tender.[118] As for the ProInga consortium, it embarked on a brand new design for the next stage of Inga, with an installed capacity up to 12.8 GW, about three times what was planned in the initial tender.[119] Its offer included financial models, proposals for legal structuring and about 800 pages of detailed technical plans[120] conceived by around a hundred engineers, including from the powerful American engineering company MWH, which had already impressed the Congolese authorities during preliminary discussions in 2015.[121]

If the ProInga proposal seemed more solid, why was it asked to merge with its Chinese competitor? This is where the financial dimension arises. Chinese companies' ability to raise funds, including from government-led banks such as EXIM Bank of China, is deemed vital for the execution of the project.[122] Even the Spanish offer assumed that over half of the funding would come from China.[123]

Although the merger made technical and financial sense, it created new challenges. Both consortiums have very distinct visions and operating procedures. ProInga operates from a mainly private sector rationale. Although it relies, financially, on a combination of its own equity, private loans and public concessional financing, the western consortium considers the investment as an autonomous project whose operation must generate sufficient returns to recover the investment. In other words, it adheres to a market-oriented rationale and will decide to move forward based on the site operator's internal performance calculations (Special Purpose Vehicle, or SPV).

The China Inga grouping, on the other hand, operates according to a state-oriented approach, where the main funder to convince is the government and the public Chinese banking system, including EXIM Bank of China. The Chinese state is as interested in awarding a gigantic construction contract to Chinese state-owned companies and expanding its influence in a strategic country for supplying its industries with raw materials as it is in seizing a share of the energy sector itself.

Laborious Negotiations

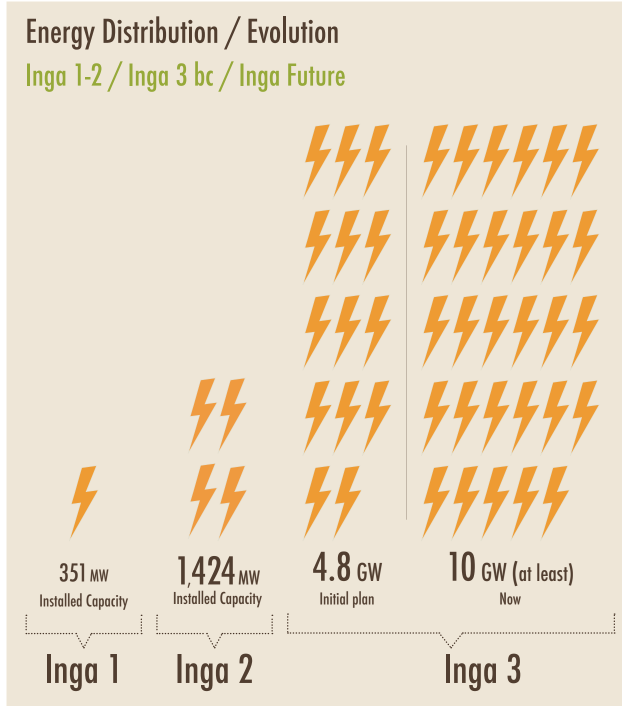
These different approaches led to laborious negotiations and delays in the submission of the joint offer ADPI hoped to receive at the end of 2017. On December 22, 2017, after long discussions in Beijing, both consortiums submitted what they called a joint "optimized offer."[124] Concretely, this is a letter in which both parties agreed on a couple of key elements: the power output (at least 10 GW), the required period for construction (7-8 years), and the price cap for the electricity generated (0.03 dollars per kW/h).[125]

The letter also promised that the consortiums would "shortly" submit a series of appendices including a technical proposal, a financial model and a draft agreement for exclusive collaboration.[126] These documents were finally submitted during the first semester of 2018 and did not meet ADPI expectations – the agency referred to them as a "joint letter" rather than a fully-fledged offer.[127] In addition, ADPI objected to the investors' proposal to only formalize the joint consortium and define the list of preliminary works after the signature of the exclusive collaboration agreement.[128] The agency became increasingly impatient and ended up convening a meeting in June 2018 at Orrick's office in Paris.[129]

After these meetings, all parties agreed on some key parameters:[130] the project will have an installed capacity of at least 10 GW, half of which will be dedicated to South Africa; the project will involve the closing off of the Congo river; and the price per kW/h will be capped at $0.0255.[131] In October 2018, the parties signed an exclusive development agreement, which only fixed a deadline for the joint offer submission – on November, 10, 2018 – and a timeline for the next stages.

The offer was effectively submitted in November 2018 and complied with the main guidelines agreed during the Paris meeting (see Box).

From the signature of the exclusive collaboration agreement – planned for the end of 2018 but still not signed – it would take about two years to reach the financial and technical close. This was scheduled for end 2018 but has still not been signed to date. The Inga III construction work itself will last for eight years. Consequently, Inga III's final completion should not be expected before 2028.



2018 design for the Inga III project[132]

Technical aspects of the power plant

Installed capacity	at least 10 GW; probably 11.050 MW.[133] This is therefore closer to the proposal from ProInga (12.8 GW) than that of EDF and AECOM (4.8 GW). The minimum 10 GW would be allocated as follows: - 5 GW for the Republic of South Africa; - 3 GW for the Democratic Republic of Congo (without specifying the percentages dedicated to the mining industry and the general population); - 2 GW for other regional countries
Turbines	thirteen (13) 850-MW Francis turbines. In other words, each turbine will be 2.5 times more powerful than the total capacity of Inga I.
Annual power produced	~88.65 Twh. This would make Inga III the third most productive hydroelectric site in the world after the Three Gorges in China (100+ TW/h in 2018) [134] and Itaipu on the Brazil-Paraguay border (~96.6 TW/h in 2018).[135]

Technical aspects of the dam

Location of the dam — Several options are possible between Kianda and Fwamalo.

Unlike previous designs, which only planned for partial diversion of the river, this dam would involve a total closure of the river during the next stage of Grand Inga.

Height of dam water level (normal pool level) — Several levels are being considered, between 190 and 205 meters, with a preliminary proposal for the highest option. This 205-meter "normal pool level" will have a greater environmental impact and would require a political agreement with Congo-Brazzaville, since the river will cross its border at a certain location, according to the draft project submitted by the consortiums. For ADPI, the flooding of the territory of Congo-Brazzaville should be excluded at all costs.

Inga III would constitute, as initially planned, a forthcoming phase of the Grand Inga project. The project is not being questioned, but will change its form and location in order to match the new design.

Inga I and II will be able to continue operating but will incur a loss of 1,100 GW/h per year, equivalent to the production of one of the eight current Inga II turbines.

Financial aspects

Required led investments for production (not including electricity transmission and transportation)

- Equipment investment (not including financial fees): 10.467 billion dollars
- Total use of the funds: 13.9 billion dollars

In the letter from December 2017, the price floor was set at 0.03 per kW/h for the Inga item – excluding taxes and "other fees" including transportation.[136] Although this is a quite competitive price, it still represents twice the initial price proposed by ProInga and suggests Chinese upward pressure on the prices.[137] In further discussions, this price has been revised to $0.0215 cents per kW/h.

Internal rate of return: 19%

Project amortization period: 18 years

Average cost of debt borne by the project company: 6.4%

Debt/equity capital ratio: 80/20

Project timeline

Signature of the exclusive development agreement further to which the development stage will start:

- Performance of preparatory works by the government: the reinforcement of Matadi port and the Matadi – Inga road; the construction of the deepwater port at Banana, which was initially planned, is no longer mentioned;
- Performance of complementary works by the joint consortium: technical studies, social and environmental studies, negotiation of power purchase agreements, negotiation of the concession agreement with the state and raising funds.
- Outcome: financial closer;
- Time required: 18 months according to optimistic estimates[138]

Construction phase: (after financial close) — Time required for construction: 64 months (commissioning of the first turbine) + 24 months (finalization)

A Project Requiring Further Consolidation

All these projections assume Inga promoters manage to raise the required funds. Development works alone (before the construction of Inga III per se) are estimated at between $200 and $250 million, representing $65-80 million for complementary works, i.e. for complementary studies and the conclusion of legal agreements, and $150-170 million for preparatory works – the construction of road and port infrastructures required to start construction.[139]

No Inga III Project without Financial Support

ADPI and the investors are hoping that at least part of these costs will be borne by international financial institutions. Soon after the Paris meetings, the president of the African Development Bank received an ADPI delegation in Abidjan and agreed to a meeting with the developer candidates in July 2018.[140] In the last few years, the ADB has remained in the background, not only because of the World Bank withdrawal, but also due to the drastic reconfiguration of Inga 3 compared to the studies the bank first funded.[141] The meeting's objective was thus to present this new 10+ GW project proposed by developers.

An even greater challenge is the need to find over 10 billion dollars for the project itself. It is almost impossible to raise these funds without the main client, South Africa. South Africa's commitment to Inga III is valid until March 2025, which is the expiration date of its binding treaty with Congo. If South Africa manages to sign a power purchase agreement (PPA) by then, it would be automatically extended.[142] So legally speaking, Congo still has plenty of time to get the project off the ground.

No Inga III Project without Consumers

In December 2018, a few days before the presidential elections and after fierce debates in the South African Parliament regarding the soundness of energy security based on Inga, the South African Minister of Energy confirmed not only its country's initial interest in the Inga III project, but also the interest of being allocated an extra 2,500 MW, bringing the total production allocated to South Africa to 5,000 MW out of the expected 11,050 MW.[143] In a letter addressed to ADPI Mission Officer Bruno Kapandji, the South African minister listed a number of terms, such as Inga "factory-gate" prices not exceeding 3 cents per kW/h and the obtaining of internal approvals, etc.[144] South Africa is thus positioning itself as Inga III's main electricity purchaser as well as an important distributor, intending to sell part of its share to other sub-regional countries, such as Zambia and Zimbabwe.[145] Its objective is to limit the risks entailed by transmission lines crossing Zambia and Zimbabwe without their citizens benefiting from this power transiting South.

However, this enthusiasm for Inga III failed to win unanimous support. In late 2018 during the final revisions of the Integrated Resource Plan, a document summarizing South African strategy for electricity generation, the South African Parliamentary energy commission raised doubts over the project's feasibility and the guarantee that it would be ready on time. In its final recommendations, the South African Parliament recommended "considering alternatives to replace the 2,500 MW in case the Grand Inga project is not operational in time."[146] As part of the Parliament discussion, an official from the Ministry of Energy confessed that Inga power per kW/h will be more expensive than other energy sources available in South Africa.[147] Several South African and Congolese non-governmental organizations asked the government not to purchase Inga electricity.[148]

Other alternatives could indeed surface and make Inga III an obsolete choice for the South Africans. The booming South African energy sector has been dominated by a variety of energy production sources undergoing spectacular growth since 2014. The South African government has supported about 100 renewable energy projects and a plan aiming at increasing renewable energies to 21% of the national power mix by 2030,[149] thanks to its policy for purchasing power from independent producers.[150] Under the new presidency of Cyril Ramaphosa, the South-African Energy minister has revived the private operator-led development process. The approach was blocked for a couple of years at the end of President Zuma's term.[151]

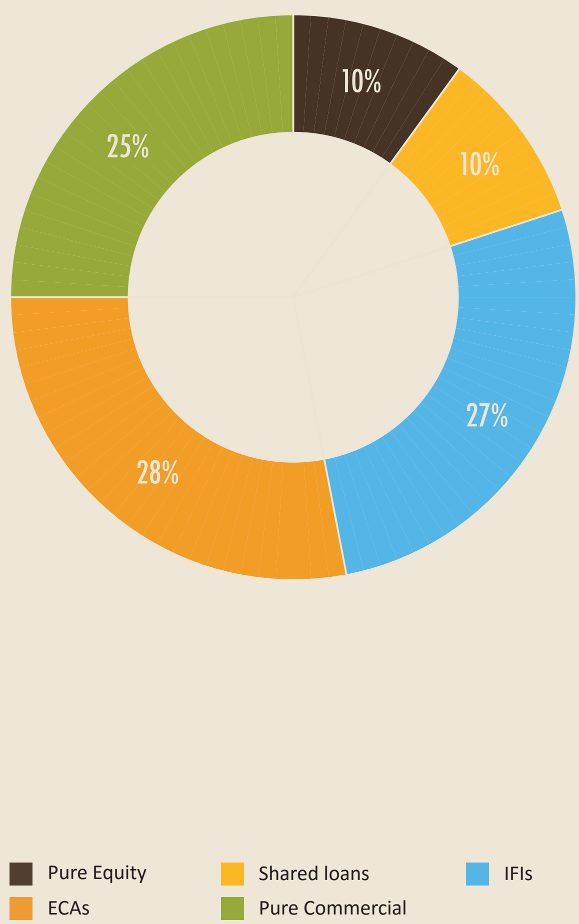
Despite the electricity crisis which hit South Africa in early 2019, the development of alternatives should make Inga an obsolete option. Moreover, in 2015, South Africa started to export electricity and even includes DRC mining companies among its clients – while the opposite was expected to happen.[152]

These same mining companies, which never committed formally to purchasing their energy from Inga III, did not hesitate to develop their own solutions next to their copper and cobalt sites in order to bridge the energy gap quicker.[153] And companies big enough to commit to PPAs over a period long enough for a project such as Inga III have already embarked on this path. China Molybdenum, which controls the biggest mining project in the country (Tenke Fungurume Mining), invested in the rehabilitation of the Nseke power plant (260 MW) and is analyzing the possibility of developing a new site in the former Katanga province, according to one of its technical experts. Glencore, which operates two of the three biggest copper projects in Congo (Kamoto Copper Company and Mutanda Mining), has already committed to invest about $400 million for the rehabilitation of Inga I and II (rehabilitating over 300 MW).[154] As for the Chinese group running the "infrastructure for minerals" deal, they purchased the 240 MW Busanga concession, located less than 100 km from its Kolwezi mining sites, and have begun developing it.[155]

Finally, Ivanhoe and Zijin, which are about to exploit the new Kamoa and Kakula mine, have been negotiating for years to develop Nzilo II/III, again located in the former Katanga province.[156] Sombwe is another project in the development stage, also exceeding 150 MW of additional energy in the former Katanga province.[157]

To all of these difficulties can be added the political context in Congo with the arrival of a new head of state who, while reiterating the discourse of developing the potential of Inga, seems to be still hesitant in its determination to continue along the same course as the previous authorities.

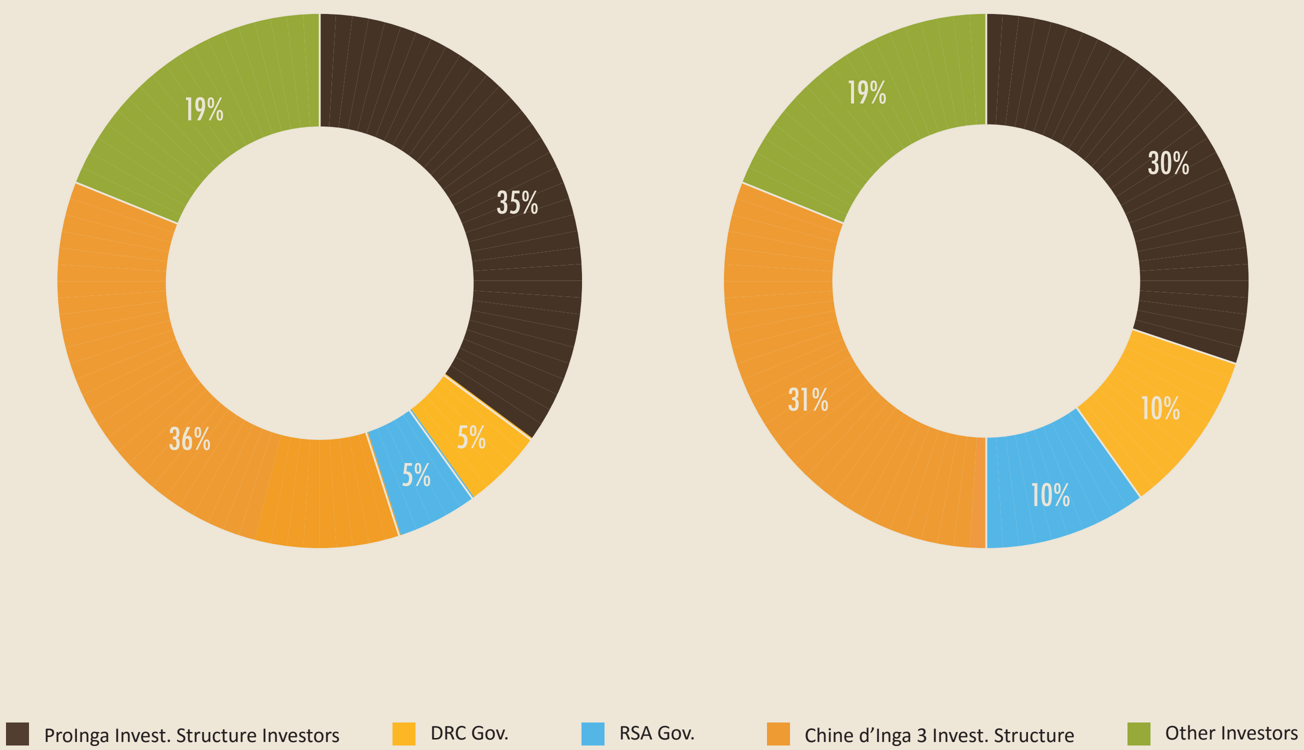
Sources of Financing for the Special Purpose Vehicle



Equity Split of the Special Purpose Vehicle

- For the **DRCG**: 5% of the SPV free of charge and up to an additional 10% to its net book value as an option
- For the **RSA**: from 5 to 15% of the SPV to its net book value

Taking this into account, two alternative equity structures are shown:



Inga III and Political Change in DRC

The election of Félix Tshisekedi as president at the end of January 2019 revived the interest of the players and of the population in the question of the future of the project. The new president has made Inga III one of the priorities of his regional integration policy.[158] In his inauguration speech, he said of Inga that it would be a project conducted "with more transparent opening towards the partners, taking into consideration the strategic and global importance of this site."[159] With the opening up of the public space, several other voices made themselves heard, asking for greater transparency in the management of this file. This new positioning of the Congolese authorities renews interest in the questions that remain pending.

New or Complementary Studies

One of the main questions posed today concerns the various preliminary studies for Inga III. For, as emphasized previously, the studies carried out up until now were based on the 4,800 MW project and did not constitute final studies. As the new design allows for a power plant with almost three times the capacity of the initial one, it would appear that new studies will be required.

For their part, ADPI indicated that "complementary studies will be conducted and the new Chinese-Spanish consortium has agreed to provide funding for them of up to 80 million dollars."[160] When we pointed out that some Congolese NGOs had serious doubts about the issue, the head, Bruno Kapandji, stated that it was clear evidence that these NGOs were in bad faith, for "no serious bank in the world would fund such a project without first carrying out impact studies."[161]

Towards a Broadening of the Range of Partners?

Another important point related to the change of president is the question of other partners who may be interested in becoming involved in Inga III. During his first trip outside Africa, President Tshisekedi met with the American Energy Secretary and the Inga III project was one of the main subjects on the agenda, according to Congolese media quoting sources close to the Congolese presidency.[162] Should we expect the Americans to return to the scene of Inga III?

Some sources within the new head of state's cabinet also suggest that the World Bank could return to the project, even though ADPI and World Bank officials have all affirmed such a move would not be a possibility in the short term. Another member of the president of the republic's cabinet nonetheless assured us that discussions are taking place with the World Bank on this subject.[163]

New Risks Related to the New Project

- The new project of more than 11,000 MW, with the construction of a dam that will close off the Congo river, would flood part of the city of Luozi and spill over the banks on the Congo-Brazzaville side, according to the consortium documents in our possession. When we mention this aspect, ADPI affirms that the "developers will be rigorously instructed to contain the possible impacts within the territorial boundaries of DRC, for it is out of the question for reasons of strategy and sovereignty that other players become involved in the management of Inga III."[164]

  There is also a problem of process compliance in the manner this project is conducted. ADPI suggested that in order to move quickly, the Congolese government might be able to proceed directly to the conclusion of a concession contract with the two current developers, whereas in principle, this step was only supposed to take place after the completion of the additional studies, the establishment of the project company and the definition of the plan to reduce the impacts on local communities and their compensation schemes.

Conclusion

Inga III is such an ambitious project that Congo would be better off uniting its forces if it really expects to benefit from it. The decision taken by the president's office to give itself almost exclusive control over the project runs counter to this principle and has had a significant impact on the project's development.

The whole process is therefore suffering from this decision, in several key operational areas: unclear developer selection terms, the absence of complementary social and environmental studies for lack of financial means following the withdrawal of its main funders, setting up of a sui generis institutional supervision scheme beyond parliamentary control, the project's rejection by parliament and civil society, and DRC's weak position during negotiations with potential shortlisted candidates. The negotiations were led without a proper technical team able to rival the robust team of advisors supported by investors. ADPI is now asking these very investors for funds for its running costs, thus jeopardizing its independence.

New President Félix Tshisekedi should reopen the process of managing Inga III to civil society organizations and the appropriate national institutions. He should call on qualified experts and wait for the results of the impact studies, including second appraisals financed by the government, before assessing whether the project is appropriate for the country and its people.

DRC should also find the necessary means to carry out environmental and social studies, more important than ever, especially in the light of a total closure of the Congo River and a 205-meter dam with a potential impact beyond the Congo-Brazzaville border. The final approval of the consortium should depend on the results of these environmental and social studies.

An appropriate evaluation would also provide better control over developers' financial proposals, especially since the merger between the consortiums has eliminated any possibility of promoting competition between offers to procure a more beneficial deal for Congo.[165] The actual cost per kilowatt hour should have been determined by the complementary studies meant to be performed by the expert panel recruited by the World Bank, but they could not fulfill their mission due to the suspension of technical assistance.[166]

In the midst of the project's technical negotiations, it is easy to lose sight of the terrible energy deficit the country faces. After years of management behind closed doors, it is high time Inga promoters build a project with the Congolese people and for the benefit of the Congolese people. The current design of Inga III only provides for 3 GW for the Congolese population, without any distinction being made between the electricity allocated to the general population and the power allocated to the mining industry. Given SNEL's difficulties and the low purchasing power of the Congolese people, it is justifiable to fear that Inga could generate revenue for the Treasury without significantly contributing to the electrification of the country.

The debates expected to occur during the two-year preparatory phase will have a real and lasting impact on the population, if this project sees the light of day. The public interest must be defended today, with tools adapted to the scale of this ambitious project, ahead of the conclusion of a potential concession agreement allocating the Inga 3 site to developers. Otherwise, critics will keep fuelling the image of suspicion and rejection already surrounding the project, and its detractors will not fail to fiercely oppose the project. Meanwhile, potential clients such as South Africa and mining companies operating in the copperbelt will already have turned to alternative solutions, pulling the rug out from under Inga III and, once again, postponing it indefinitely.

As this report was being finished, we learned that the consortium's existence itself is now threatened. Its two members are unable to reach agreement on some of its main points. Indeed, the China Three Gorges International Corporation wrote a letter September 20 to the Head of ADPI copied to the president of the republic and the prime minister which stated that "the Chinese consortium and the ProInga Consortium have been unable to reach agreement on the creation of a new, single consortium that brings together the two parties due to serious disagreements… about the

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concept of the project's development and the percentage of each party's share."

Such a disagreement confirms our concerns about how the project is being led and opens another door to those who are against the way that ADPI has managed the project. At the same time, it provides an opportunity for the new government in Kinshasa to completely re-open the Inga III dossier, both in terms of its own capacity as well as that of its investors.

Annex A

三峡国际能源投资集团有限公司
China Three Gorges International Corporation

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Website: www.ctg.com.cn

Beijing, le 20/09/2019

Réf : INGA3-GR-09-2019

Transmis copie pour information à :

- Son Excellence Monsieur le Président de la République,
Chef de l'État
(*Avec l'expression de mes hommages les plus déférents*)
- Son Excellence Monsieur le Premier Ministre,
Chef du Gouvernement
(*Avec l'expression de ma plus haute considération*)

(Tous) à Kinshasa/Gombe

À l'attention de
Son Excellence Monsieur le Chargé de Mission
Agence pour le Développement et la Promotion du Projet Grand Inga
Monsieur Bruno KAPANDJI KALALA

Objet : Proposition sur le travail de la prochaine étape

Excellence Monsieur KAPANDJI,

Je suis très heureux que l'équipe de CTGI a fait une échange avec vous le 9 septembre sur l'avancement du projet. Comme vous le savez, la première réunion de coordination dans la phase de Collaboration exclusive ont eu lieu du 21 au 28 mars à

三峡国际能源投资集团有限公司
China Three Gorges International Corporation

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Beijing parmi le Consortium Chinois, le Consortium Proinga et l'ADPI. Le Consortium Chinois et le Consortium Proinga n'ont pas pu parvenir à un accord sur la formation

du nouveau consotium unique entre les deux parties à cause de graves différends apparus au sujet des deux principes suivants.

1. Concept de développement du projet : le Consortium Proinga insiste sur la séparation de la phase de coopération exclusive et de la phase de concession. Il damande de préciser la tâche de construction et de financement de l'entrepreneur, ainsi que les grands fournisseurs des équipements électromécaniques et leur tâche de financement dans la phase de coopération exclusive, ce qui ressemble au modèle de développement EPC + F. La partie chinoise insiste que le développement du projet doit être considéré dans son ensemble et peut être divisé en une phase de coopération exclusive et une phase de consession. La phase de coopération exclusive se concentre uniquement sur l'achèvement des travaux préparatifs tels que les études de faisabilité, les plans de financement, etc.. Dans la phase de concession, les deux consortiums doivent développer le projet en mode BOT en qualité d'investisseurs, finaliser l'approbation de l'étude de faisabilité, réaliser la clôture du financement, et lancer l'appel d'offres ouvert pour la sélection des entrepreneurs et des fournisseurs.

2. Pourcentage des parts des deux parties : le Consortium Proinga exige la séparation de la phase de coopération exclusive et de la phase de concession. Dans la phase de coopération exclusive, si les deux parties créent un consortium unique en détenant les actions à la proportion 50:50 et exigeant que toutes les questions majeures fassent l'objet d'un consensus par les deux parties, et pourtant, le pourcentage d'actions détenues par le Consortium Proinga diminuera considérablement dans la phase de concession. Le Consortium Chinois insiste clairement que le développement du projet doit être considéré dans son ensemble et le pourcentage d'actions détenues dans la phase de coopération exclusive doit correspondre à celui

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dans la phase de concession, et que les décisions importantes soient prises par vote et sur la base du pourcentage d'actions détenues.

Étant donné que ces deux questions ci-dessus sont toutes les questions de principe, si le Consortium Proinga ne peut pas accepter notre demande, nous estimons qu'il n'est pas nécessaire de convoquer une deuxième réunion de coordination de la phase de coopération exclusive.

Votre lettre du 22 juillet a été bien reçue. Le Consortium Chinois est prêt à coopérer activement avec la partie congolaise au développement du projet Inga 3. Les dirigeants de CTG ont prévu de se rendre à votre pays pour faire des échanges avec l'ADPI et votre gouvernement sur le développement du projet Inga 3, mais en raison de problèmes importants en Chine et de l'épidémie d'Ebola dans votre pays, le Ministère des Affaires étrangères de la Chine a limité le visa. Il n'était pas capable de faire un voyage jusqu'à présent.

Veuillez également réfléchir comment effectuer la prochaine étape.

Tout en vous remerciant de votre soutien au Consortium Chinois, je vous prie d'agréer, Excellence, l'expression de ma considération distiguée.

Représentant du Groupement Chine d'Inga 3

Monsieur WANG Yu

Endnotes

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2 World Energy Council, World Energy Resources Hydropower 2016, 10.

3 https://stopinga3.org

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5 Pierre Audinet (Banque Mondiale), Etat des Lieux: Un Paradoxe Electrique Unique, Présentation aux Assises sur l'Electricité à Kinshasa, 8 mai 2018, 5.

6 Former Bandundu: 0.7%, Kongo Central: 13%, former Kasaï Oriental: 0.59%, former Occidental: 0.56%, former Katanga: 6.58%, Nord-Kivu: 2.91%, Maniema: 3%, Ex-Equateur: 1.51%, Sud-Kivu: 7.5% and former Province Orientale: 3.36% SNEL, Statistics, 2015.

7 Ministry of Energy and Hydroelectric Resources, National report – Energie durable pour tous à l'horizon 2030, [Sustainable energy for all by 2030], August 2013, 62.

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9 Assemblée nationale, L'Assemblée générale rejette le texte de loi sur le projet Grand Inga, [National Assembly, the National Assembly rejects the draft law on the Grand Inga project], April 6, 2018, available on , https://www.digitalcongo.net/article/5acb55d1af1bf9000459b374/ [hereinafter National Assembly rejects the Inga Law, April 2018].

10 Misser, Inga : Ambition nécessaire mais projet à mûrir, Conjonctures Congolaises 2015, 164 [hereinafter 'Misser Inga 2015'].

11 The electricity companies and governments of the five countries involved signed a cross-company and an intergovernmental memorandum of understanding, respectively, for the creation of the WESTCOR consortium. The initiatives concerned the governments of Angola, Namibia, Botswana, South Africa and Democratic Republic of the Congo, as well as their national public services enterprises Eskom (RSA), SNEL of DRC, Empresa Nacional de Electricidade of Angola, Nam Power of Namibia and Botswana Power. Power utilities sign WESTCOR shareholders agreement" SARDC. 2005-10-04. Retrieved 2010-10-23.

12 In parallel, Egypt also positioned itself as a potential client. See SNEL CEO Vika di Panzu, The Grand Inga Power Plant Project, undated presentation, slides 17-18.

13 African Development Bank, Projet d'Appui au Développement du site d'Inga et de l'Accès à l'Electricité [Inga Site Development and Access to Electricity Support Project] (PASEL), October 2013 [hereinafter ADB PASEL project 2013]

14 Groupement RSW International – EDF/Ministry of Energy and Hydraulic Resources, presentation of the Étude de développement du site hydroélectrique d'Inga et des interconnexions associées [Inga hydroelectric site and associated interconnections development study] in Kinshasa, on September 21, 2013. Grand Inga included seven stages to be developed gradually: (1) Inga 3, low head, 4,755 MW; (2) – Inga 3, high head, 3,030 MW; (3) Inga 4, around 4,200 MW; (4) Inga 5, around 6,970 MW; (5) Inga 6, around 6,680 MW; (6) Inga 7, around 6,700 MW; (7) Inga 8, around 6,740 MW. Orrick-Tractebel-Lazard group, project presentation notes, March 2014.

15 Esmarie Swanepoel, Westcor to withdraw from Inga 3 hydropower project, Creamer Media's Engineering News, 31 July 2009, available at http://www.engineeringnews.co.za/print-version/westcor-to-withdraw-from-inga-3-hydropower-project-2009-07-31.

16 F. Misser, La Saga d'Inga, l'histoire des barrages du fleuve Congo [The Inga Saga: the History of the Dams on the Congo River], MRAC/Le Harmattan, 2013, 110 and 136 [hereinafter Misser Inga Saga 2013]; Misser 2015, 156.

17 Jonny Hogg et Bate Felix, BHP not to build Congo plant, setback for hydro plan, Reuters, 15 février 2012, disponible sur https://www.reuters.com/article/bhp-congo-inga/update-1-bhp-not-to-build-congo-plant-setback-for-hydro-plan-idUSL5E8DF4V120120215.

18 Role and importance of the Inga site development within DRC energy policy, MERH presentation during the launch of the Inga electric site and associated interconnections development study, March 9, 2011.

19 U.S. Energy Information Administration (EIA) South Africa Country Analysis Brief Overview [archive], 28 February, 2015.

20 Léopold Nséké, "Le marché de l'électricité en Afrique: Intégration et portrait du leader sud-Africain", [Electricity market in Africa: integration and portrait of the South African leader], December 6, 2012, article published in Afrique Expansion INC.

21 Republic of South Africa National Planning Commission, Energy, NPC Economy Series January 2018; Republic of South Africa Energy Department, Integrated Resource Plan Update – Assumptions, Base Case Results and Observations Revision 1, 15.

22 https://www.agenceecofin.com/solaire/2009-41001-afrique-du-sud-moody-s-confiant-en-la-solvabilite-du-sous-secteur-des-energies-renouvelables

23 Lynley Donnelly, Eskom reveals billion rand losses in annual financial results, Mail & Guardian, 23 juillet 2018 ; Lameez Omarjee, We need higher tariffs to manage debt, but it won't solve the problem – Eskom CEO, Fin24, January 14, 2019.

24 See foreword of the Treaty relative to the Grand Inga project between the Republic of South Africa and the Democratic Republic of Congo, October 29, 2013 [hereinafter Inga Treaty 2013]. Before this treaty, a cooperation agreement signed in Lubumbashi on March 7, 2013 between DRC and the Republic of South Africa (RSA) had already cemented energy cooperation between the two countries. This agreement was signed in Lubumbashi on 7 March 2013.

25 Inga Treaty 2013, art. 4.2.

26 Inga Treaty 2013, art. 9.

27 Law no. 14/026 of November 21, 2014 authorizing ratification by DRC on the treaty relative to Grand Inga hydroelectric project between the Republic of South Africa and the Democratic Republic of Congo.

28 The World Bank, International Development Association Project Appraisal Document on a Proposed Grant in the Amount of SDR 47.7 million (US$73.1 million equivalent) to the Democratic Republic of Congo for an Inga 3 Basse Chute and Mid-size Hydropower Development Technical Assistance Project, March 5, 2014, 75 [hereinafter World Bank Inga 3 2014].

29 See for example the proposal from law firm Orrick, "Proposal for electricity market structuring in the Southern Province", September 2015.

30 World Bank Inga 3 2014, 75.

31 Tim Jones for International Rivers, Endetté et à l'Aveuglette – Analyse économique du projet d'Inga 3 en RDC [In debt and no planning – an economic analysis of the Inga 3 project in DRC], June 2017. It is worth noting that these estimates were based on a more restricted conception of Inga 3, referring to a project based on 4.8 GW instead of 11 GW.

32 Bruno Kapandji Kalala, « Le fleuve Congo et le projet Inga : moyen de réduction de la pauvreté et de la déforestation en RDC et opportunité d'industrialisation et intégration africaine »[The Congo River and the Inga project: a means of reducing poverty and deforestation in the DRC and an opportunity for industrialization and African integration], ADPI paper given at World hydropower Congress, Paris, May 2019.

33 Interview with Bruno Kapandji, July 3, 2019, Kinshasa.

34 Prime Minister of Congo, policy letter relative to Inga 3 Basse Chute project implementation, November 12, 2013 [hereinafter Matata Inga Policy Letter 2013].

35 Misser Saga d'Inga 2013, 123. The six groups are (1) ACS and AEE Power, (2) the consortium China Three Gorges Corporation, (3) China International Water and Electric Corporation (CWE) and Sinohydro, (4) Korea Midland Power, (5) Sithe Global Power Ventures and (6) SNC Lavaling and de Strabag.

36 World Bank Inga 3 2014, 37.

37 SNC-Lavalin is on the World Bank black list until 2023. The World Bank, World Bank Listing of Ineligible Firms and Individuals, available at: https://projects.worldbank.org/en/projects-operations/procurement/debarred-firms

38 https://www.grupoacs.com/about-acs/key-data/

39 http://www.grupocobra.com/

40 ProInga, presentation of the Inga 3 offer 3, end of 2016, 2.

41 AEE Power, EPC Portfolio, 2016.

42 Afrewatch, OEARSE, IBGDH, Projet hydroélectrique de Busanga : Pas au courant, pas de courant [Busanga hydroelectric project: no information, no power], September 2018; Centre d'Études et de Recherches sur les Énergies Renouvelables Kitsisa de l'ISTA, Kinshasa (CERERK), République Démocratique du Congo : Le projet de la centrale hydroélectrique de Zongo 2, un modèle à suivre ? [Democratic Republic of the Congo: Zongo 2 hydroelectric plant project, a role model?], to be published.

43 See http://www.cispdr.com/aboutcispdr.jhtml.

44 Interview with a potential project partner in Brussels, 2017.

45 A joint initiative from the African Union, the New Partnership for Africa's Development (NEPAD) and the African Development Bank (ADB). . https://www.afdb.org/fr/topics-and-sectors/initiatives-partnerships/programme-for-infrastructure-development-in- africa-pida/

46 ADB PASEL Project 2013, 9

47 Etude de développement du site hydroélectrique d'Inga et des interconnexions électriques associées [Inga electric site and associated interconnections development study], 18-19. Initially, the steering committee was meant to include the managing director (or his/her representative) of each national electricity company involved in the Inga development projects (including from DR Congo, Nigeria and South Africa), the Director General of Energy representing the DR Congo Ministry of Energy, a NEPAD Secretariat representative, the Director of Energy or a representative of each participating Regional Economic community (REC), and the General Secretary or Coordinator of each Power Pool (PP) involved.

48 The World Bank's International Development Association (IDA) provided $71.3 million, while the rest originated for the ADB. See the World Bank, International Development Association Project Appraisal Document on a Proposed Grant in the Amount of SDR 47,7 million (US$73,1 million equivalent) to the Democratic Republic of Congo for an Inga 3 Basse Chute and Mid-size Hydropower Development Technical Assistance Project, March 5, 2014, vii-viii [hereinafter World Bank Inga 3 2014].

49 World Bank Inga 3 2014, 12-13.

50 World Bank Inga 3 2014, 12-13. This element was supposed to cost $20 million.

51 World Bank Inga 3 2014, 13-14.

52 World Bank Inga III 2014, 23-24.

53 World Bank Inga III 2014, 14.

54 World Bank Inga III 2014, 14.

55 "The government will manage technical, financial and economic aspects of the projects, as well as environmental and social impacts, in an efficient and transparent manner in order to reach this outcome." World Bank Inga 3, 2014, Annex 1

56 World Bank Inga 3 2014, Annex I.

57 Decree no. 13/019 of June 6, 2013 on the creation, organization and functioning of an inter-ministerial commission for the construction of the Inga 3 hydroelectric plant in Bas-Congo province; Decree no. 15/008 of April 15, 2015. According to article 5 of the second decree, inter-ministerial commission members are the prime minister; the member of government chairing the standing inter-ministerial commission in charge of economic matters; ministers whose remit includes the budget, economy, electricity, environment, finance, infrastructures and planning, and a representative from the office of the president of the republic. Furthermore, the prime minister has the possibility of convening other ministers or people to take part in the commission's work.

58 Ministerial order no. CAB/MIN/RHE/011/2013 of March 29, 2013 on the creation, organization and functioning of the Inga project management unit (CGI3) within the Ministry of Energy and Hydraulic Resources, Journal Officiel, March 15, 2014, 121-122.

59 Ministerial order no. CAB/MIN/RHE/032/2013 of July 23, 2013 on the creation, organization and functioning of the Inga Facilitation Committee (CFI) in the Bas-Congo province, Journal Officiel, May 15, 2014, 60-62.

60 Meetings addressed the progress of technical studies, funders' financial status, the conclusion of the Treaty with South Africa, etc. See, for example, Inga Site Project Development Facilitation Committee in Bas-Congo province, minutes of meeting held on February 21, 2014.

61 The Chinese consortium suggested carrying out studies on several topics: the influence of mud and sand sedimentation build-up against the dam in the operational costs, the leaking issues in canal construction, river submarine topography, hydrologic data and work, automatic forecast systems, selection and comparison of the best physical programs and models, and other key elements which will have a long-term influence on the dam works. The Spanish group wanted to get a deeper understanding of the whole project's global environmental impact, works' physical models and turbine structure. Minutes of the workshop on sharing preparatory information used to finalize the consultation document for the private partner selection process relative to Inga III project execution, July 22-24, 2014, in Kinshasa.

62 Ministry of Energy and Hydraulic Resources/Inga III Project Management Unit, Terms of Reference for (1) Environmental and Social Impact Studies (ESIS) of small and mid-size hydroelectric plants; (2) Inga Physical Cultural Resources Management Framework; (3) planning framework in favor of Indigenous populations (CPPA) for the Inga 3 transmission line; (4) Environmental and Social Studies relating to the Inga III project, including the new transmission line to the Zambian border; (5) Environmental and Social Impact Studies (ESIS) of the hydroelectric plant and Inga III joint structures; (6) expansion of the mandate of the dam security expert panel in charge of Inga 1 and 2 dam rehabilitation monitoring to cover monitoring of the technical assistance project for designing the Inga III dam; (7) Inga III environmental and social experts panel; (8) Resettlement Action Plan (RAP) for the SAAP transmission line; (9) Resettlement Action Plan (RAP) for the inhabitants of Kinshasa Camp and villages located within the national electric company (SNEL) concession at Inga; (10) resettlement policy framework (RPF) for mid-size hydroelectric plants; (11) Community Development Plan for local property owners at the Inga site/Bas-Congo province, June 2013.

63 Nodalis Conseil, ADPI governance bodies, roles, functioning and good practices – In-depth analysis to support decision-making, Presentation, October 2014.

64 Interview with Bruno Kapandji Kalala, Mission Officer for the Agency for the Development and Promotion of the Grand Inga project, October 2017 [hereinafter Kapandji interview October 2017].

65 https://www.lalibre.be/planete/pas-d-argent-americain-pour-le-barrage-d-inga-5300ed583570c16bb1ce4be3, retrieved on 18 July 2019.

66 Interview with Bruno Kapandji Kalala, Mission Officer for the Agency for the Development and Promotion of the Grand Inga project, in July 2019, in his office in Kinshasa. [hereinafter 'Kapandji interview July 2019'].

67 Several senior officials and sector contractors expressed frustration regarding the slow procedures, as each single major contract needed bank non-objection (a process taking from several months to a year for each stage)

68 "Bras de fer entre Orrick et la Banque Mondiale autour de Inga 3" [Power struggle between Orrick and the World Bank for Inga 3], http://www.jeuneafrique.com/5594/economie/bras-de-fer-entre-orrick-et-la-banque-mondiale-autour-d-inga-iii/. The recruitment of consultants started before multilateral funding approval, and the question of compliance with funders' recruitment procedures was raised. The ADB released a "legal memo" when its funding was approved in order to justify compliance in the selection of the law firm (without mentioning Orrick), specifying that "certain provisions could be revised, if necessary" in order to comply with the ADB procedural rules. African Development Bank, Legal Note clarifying the Consultant's Competitive Selection and Recruitment Process as well as Arrangements for Continuation of Service Provision under the Inga Project, October 22, 2013.

69 Phone interview with former CGI3 Coordinator Bernard Diayele, May 2018 [hereinafter Diayele interview May 2018].

70 Interviews with Stone Diadia, former energy advisor to the prime minister under Matata's government in charge of energy; Diayele interview May 2018.

71 Aside from CODESI, it is worth noting the existence of another structure, the Inga Committee, made up of the main advisors to the prime minister and president in charge of piloting CGI3.

72 Diayele interview May 2018.

73 Ordinance no. 15/079 of October 13, 2015 on the creation, organization and functioning of a specialized service within the office of the president of the Republic called the Agency for the Development and Promotion of the Grand Inga Project (ADPI-RDC) [hereinafter ADPI decree October 2015].

74 ADPI decree October 2015, article 8.

75 Decree no. CAB/MIN-ERH/058/2015 of October 30, 2015 relating to the unit for managing the project to develop mid-size power plants (UCM).

76 For more information on UCM's background, see http://www.ucmenergie-rdc.com.

77 It is worth noting that UCM currently relies on three funders after participating in February 2016 in the identification and preparation of three new projects, namely: "Support to the Governance and Enhancement of the DRC Electricity Sector – PAGASE" from the ADB; "Electricity Access and Expansion of Energy Services – EASE" from the IDA, and the Hydroelectric Program in the Water Sector Program "PROHYDRO".

78 Entretien Kapandji octobre 2017 ; entretien avec le directeur provincial opérationnel d'Inga I et II, août 2016.

79 Vice-President of the World Bank Makhtar Diop, letter addressed to the Minister of Finance Henri Yav Mulang and to the ADPI-RDC Mission Officer Bruno Kapandji Kalala regarding strategic orientations of Inga 3B project development and the expected support from the World Bank, March 15, 2015, 2.

80 World Bank, press release, Washington, July 25, 2016: The World Bank Group suspends financing to the Inga Basse Chute technical assistance project and other mid-size sites in Democratic Republic of Congo (DRC). http://www.banquemondiale.org/fr/news/press-release/2016/07/25/world-bank-group-suspends-financing-to-the-inga-3-basse-chute-technical-assistance-project

81 Kapandji Interview, July 2019.

82 Interview with Bruno Kapandji, July 2019.

83 Interview Bruno Kapandji, November 2017.

84 Interview with Patrick Mandundu, former legal expert at CGI3; ProInga and China d'Inga 3, Inga 3 Project - Overview of the current status – Meeting with the African Development Bank – Abidjan, Presentation July 2018, 17 [hereinafter Inga consortiums' presentation to ADB 2018].

85 Interview with the ADB Principal Country Program Officer Akoupo Donatien Kouassi, July 2018..

86 World Bank Inga 3, 2014, 14.

87 According to the company documents, the transfer from Gecamines to ADPI occurred in February 2017.

88 Interview with developer candidates and former CGI3 officers. ADPI did not respond to our questions regarding the use of developers' bonuses. .

89 Minutes from meeting sessions between ADPI-RDC and Inga 3 candidates, Paris, June 4-7, 2018, 2.

90 Minutes from the meeting between Inga 3 China group and ProInga consortium, June 6, 2018.

91 Mutuku Interview, November 20, 2017. .

92 Law no. 11/009 of July 09, 2011 on core principles relative to environmental protection.

93 Article 202 of the DRC Constitution.

94 According to ordinance No. 17-025-10-juillet-2017-fixant-attributions-ministeres, the Minister of Energy is in charge of energy in all its forms, including electric energy strategy design; setting up of an electricity action plan and regulation mechanisms; development of water and electricity production, transportation and supply capacities; development of electric energy export capacities and domestic supply; and necessary reforms and restructuring to enhance sector efficiency in collaboration with the ministry with the relevant portfolio.

95 Interview with Bruno Kapandji, the ADPI Mission Officer. According to him, the workshop was supported by the ADB.

96 Interview with official at the National Commission for Energy, November 2017

97 Ordinance no. 15/080 October 13, 2015 on the appointment of a Mission Officer to the Office of the President of the Republic.

98 Interview with former official from CGI3.

99 ACS turnover amounted to about $35 billion in 2017. ACS, Actividades de construcción y Servicios, S.A. and subsidiaries, Consolidated Financial Statements for the Year ended 31 December 2017, unnumbered. In 2016, the China Three Gorges Group turnover was about $11.7 billion. China Three Gorges Corporation, Annual Report 2016, 4. DRC domestic revenues were estimated at around $4 for the year 2017.

100 Interview with Bruno Kapandji, July 2019. Neither ADPI nor ADB provided us with the details sought regarding the extent of the support and the precise nature of the activities carries out by the three consulting firms.

101 The Office of the President of the Democratic Republic of Congo, Ordinance no. 18/004 of January 9, 2018 on complementary provisions relative to the status, organization and functioning of the Agency for the Development and Promotion of the Grand Inga Project (ADPI-RDC)".

102 For example, the strategic committee was not present during the meetings between both consortiums and the Congolese government in Paris, in June 2018.

103 CNONGD and CORAP, "Position de la société civile sur le projet Inga III Basse chute," [Civil society position on the Inga 3 Basse Chute project] 23 May 2014.

104 Coalition of Civil Society Organizations for Public Action Reforms (CORAP), press release on the Inga project, June 6, 2018. See also: www.stopinga3.org.

105 www.stopinga3.org.

106 Draft law containing provisions relative to the Grand Inga project promotion and development, received by the President of National Assembly Secretariat on March 28, 2018.

107 L'Assemblée nationale : le projet de loi sur le projet Grand Inga rejeté, [National Assembly: Draft Law on Grand Inga Project Rejected], L'Avenir, 9 April 2018.

108 As part of the Inga Treaty, Congo committed to "take reasonable measures to adopt the laws and regulations governing the project that DRC deems necessary." Therefore, the Inga law is only required to the extent Congo deems it to be necessary. See art. 4.1 Inga Treaty 2013.

109 L'Assemblée Nationale : le projet de loi sur le projet Grand Inga rejetté [National Assembly: Draft Law on Grand Inga Project Rejected], L'Avenir, April 9, 2018.

110 Senator Raphaël Siluvangi Lumba, draft law on the promotion and development of the Grand Inga energy program, February 25, 2018 [hereinafter Senate Inga Draft Law 2018].

111 Not only is this new draft law far less comprehensive than the one presented to the National Assembly but it also contains flaws and blatant inconsistencies. Most of its provisions come down to general instructions: we need to protect the environment; we need to respect timelines; we need to comply with safety standards, etc. The draft law contains other weaknesses: according to the text, "most provisions complete" other laws, including those on electricity, without defining any hierarchy in case of contradiction; the draft law designates "the government of DRC" as the licensing authority and stipulates that the government can delegate duties to the provincial governor, while other legal texts recognize ADPI as the licensing authority. It places ADPI under the authority of the Minister of Energy and Hydraulic Resources, whereas the ADPI ordinance in effect places it under presidential authority; it also promises investors not to unilaterally modify the law without providing for compensatory measures, while Congo recently did precisely that in a very controversial fashion concerning the mining industry despite a similar stability clause. The text also includes very broad promises to a wide range of potential actors without necessarily being able to keep them ("L'Etat s'engage à donner, par voie de concession, licence à tout concessionnaire pour tout commerce interne ou externe de l'électricité produite sur le site dans le cadre de ce programme [The State commits to give, by means of concession, all concession holders the freedom to trade domestically or externally in the electricity produced on the site as part of this program]." Environmental provisions are almost non-existent; the fiscal regime relies on common law but also allows for certain waivers, yet to be defined. Senate Inga Draft Law 2018.

112 Interview with Bruno Kapandji, July 2019, Kinshasa.

113 Office of the President of the Republic/Agency for the Development and Promotion of the Inga, Projet Inga 3: les deux consortiums en lice invités à soumettre une offre conjointe [Inga 3: both preselected consortiums requested to submit a joint offer], press release, June 13, 2017 [hereinafter ADPI release, June 2017].

114 John Vidal, Construction of World's Largest Dam could begin within Months, The Guardian, 16 May 2016. https://www.theguardian.com/environment/2016/may/28/construction-of-worlds-largest-dam-in-dr-congo-could-begin-within-months [hereinafter 'The Guardian Inga May 2016'].

115 The Guardian Inga May 2016.

116 See release from the Office for Coordination and Monitoring of the China-Congo Program, September 2015.

117 Action Plan to Crack the Inga Enigma, Africa Confidential, June 29, 2017 [hereinafter Inga Action Plan June 2017]; interview with an employee from the Office for Coordination and Monitoring of the China-Congo Program, October 2016. In a presentation to the ADB, both consortiums explained that "transportation costs to South Africa with a 5,000-MW direct current (DC) high voltage line would make the project bankable, unlike a 2,500-MW line". Inga consortiums' presentation to ADB, 2018, 6.

118 Inga Action Plan June 2017..

119 Summary presentation of ProInga offer, 2017..

120 Summary presentation of ProInga offer, 2017.

121 Diayele interview May 2, 2018.

122 Diayele interview May 2, 2018.

123 For the funding of the first phase of the project, equivalent to 7.8 GW of installed capacity, the ProInga offer provided for $5.1 billion from China, and $3.1 billion raised directly by ProInga. For the full phase (12.8-GW project), the total amount (first phase included) would be shared almost evenly between China (($5.3 billion) and ProInga (($5 billion). All amounts cited exclude financial costs. Summary of the ProInga offer 2016.

124 Joint letter from the China Inga Consortium and ProInga Consortium to the Inga Mission Officer Bruno Kapandji, December 22, 2017 [hereinafter joint letter December 2017].

125 Joint letter December 2017.

126 Joint letter December 2017.

127 In the Paris meeting minutes from June 2017, the documents submitted by consortiums are called "joint letter", a distinct term from the "joint optimized offer" yet to be submitted at that point. Minutes from meeting sessions between ADPI-RDC and Inga 3 project candidates in Paris from June 4-7, 2018 [hereinafter ADPI meeting minutes Paris June 2018], 1.

128 Joint letter December 2017.

129 Paris meetings held June 4-7, 2018.

130 The Congolese government and consortiums agreed on the parameters. They obtained the South African government's approval afterwards.

131 Joint letter December 2017; Inga consortiums' presentation to ADB 2018.

132 Unless otherwise stated, the summary is based on the Joint Consortium (Inga 3 China & ProInga), Inga 3 Hydropower Project, Democratic Republic of Congo, Common Proposal, October 2018.

133 The installed capacity of a means of production measures its capacity to deliver an amount of energy in a given unit of time. Here, watt-hour (Wh) is used to quantify the energy delivered.

134 Zhang Jie, Three Gorges Dam generates record amount of power, China Daily, December 21, 2018, available at http://global.chinadaily.com.cn/a/201812/21/WS5c1c5eeca3107d4c3a002168.html

135 Itaipu Binacional, Production from Year to Year, disponible sur https://www.itaipu.gov.br/en/energy/production-year-year.

136 Joint Letter December 2017.

137 ProInga Consortium Letter to Inga Mission Officer Bruno Kapandji entitled "Inga 3 Project. Offer Presentation", July 31, 2016, 1.

138 Interview with two participants at the Paris meetings, June 2018. Development works are divided into two categories: (1) "complementary works", including technical, social, environmental and hydraulic studies, conclusion of power purchase agreements, acquisition of lands and other licenses, and (2) "preparatory works" mostly consisting in infrastructure works required to start the construction – for example, increasing the port of Matadi's capacity and strengthening bridges and roads on the Inga-Matadi axis. ProInga, Inga 3 Project – Overview of development activities and ECC, June 2018.

139 ProInga, Inga 3 Project – Overview of development activities and ECC, June 2018; interview with participants at the Paris meetings, June 2018; Inga consortiums' presentation to ADB 2018.

140 Inga consortiums' presentation to ADB 2018.

141 It seems that the ADB supported Inga feasibility study updates in 2016 and 2017, still based on the old 4.8-GW model of Inga 3 Basse Chute, which is seen as somewhat obsolete by current Inga promoters. Unfortunately, the conclusions have never been made public. Interview with the director in charge of ADPI development, Mutuku, October 2017 [hereinafter, Mutuku Interview October 2017].

142 Inga Treaty 2013, article 20.1

143 See, for example: South African government, Parliament adopts draft Integrated Resource Plan 2018, press release of November 28, 2018, requiring the government to develop alternative solutions to Inga, in case the project was not finalized within the expected timeframe.

144 Letter from the South African Minister of Energy Jeff Radebe to the Coordinator of the Agency for the Promotion and Development of Grand Inga (ADPI-RDC) dated from December 19, 2018 [hereinafter Minister Energy letter to ADPI 2018].

145 Energy Minister Letter to ADPI 2018, 2.

146 South African Parliament, Energy Committee Adopts Draft Integrated Resource Plan 2018, Nov., 2018, available at https://www.parliament.gov.za/press-releases/energy-committee-adopts-draft-integrated-resource-plan-2018.

147 Portfolio Committee on Energy, Parliament of the Republic of South Africa, 4 septembre 2018.

148 These included GreenPeace SA, Earthlife South Africa, Energy Governance Initiative South Africa, GroundWork, South African Faith Communities Environment Institute, African Climate Reality Project.

149 The South African government has supported nearly 100 renewable energy projects as well as a plan which intends to produce 20,000 MW of renewable energy by 2030, https://www.gov.za/sites/default/files/gcis_document/201409/ndp-2030-our-future-make-it-workr.pdf

150 The South African share of African electricity production was 38% in 2012, and 5% of South African electricity produced outside Eskom came from a couple of mines, industries and municipalities managing their own power plants, as well as a handful of independent producers. http://archive.wikiwix.com/cache/?url=http%3A%2F%2Fwww.tresor.economie.gouv.fr%2FFile%2F390409

151 Thembisile Dzonzi, South Africa signs long-delayed renewable power deals, Bloomberg News, 4 april 2018, available at https://www.bloomberg.com/news/articles/2018-04-04/south-africa-minister-signs-long-delayed-renewable-power-deals Paul Burkhardt, How to wreck the world's fastest growing renewables program, Bloomberg News, 1 February 2018, available at https://www.bloomberg.com/news/articles/2018-02-01/how-to-wreck-the-world-s-fastest-growing-renewables-program

152 During an interview to the magazine Business et Finances in 2017, current SNEL Director General, Jean Bosco Kayombo, then director in charge of electric energy management for mining company MMG and member of the DRC Chamber of Mines' Energy Commission, in partnership with SNEL, explained that: "South African national electricity company Eskom announced a surplus in its electric power production, and offered to sell it to deficit countries in need of it. So SNEL jumped at the chance. Mining companies contacted by Eskom also found a solution to their difficulties." http://business-et-finances.com/energie-un-casse-tete-chinois-pour-les-miniers.?

153 A roundtable session held in 2012 in Lubumbashi, whose objective was to reach memorandums of understanding relative to purchasing electricity with mining companies, met with mitigated success, since the industry considered it to be a premature issue. The World Bank Inga 3 2014, 99. Similarly, Orrick presentations on a potential structuring of a buyers' consortium in the south of Congo was not received with great enthusiasm. Orrick Inga 3 Basse Chute project presentation, September 2015, Republic of Congo, January 2017, 15; Chamber of Mines, Green Book of the Chamber of Mines on the Revision of the Mining Code in the Democratic Republic of Congo, January 2017, 15.

154 Chairman of the KCC Board of Directors Gustave Nzeng, FRIPT PPP project and expected impacts, October 2014, 5; Katanga Mining Ltd., Unaudited Interim Condensed Consolidated Financial Statements for the Three Months ended March 2018, and 2017, 27.

155 Office for Coordination and Monitoring of the China-Congo Program, China-Congo cooperation project – 5 years for reconstruction and modernization, 2013, 5; RD Congo : coup d'envoi du barrage de Busanga, au coût estimé à 660 millions de dollars [DR Congo: launch of the Busanga dam, estimated at $600 million], Jeune Afrique, June 7, 2016, available at: http://www.jeuneafrique.com/331747/economie/rdc-chine-va-construire-barrage-de-busanga-dune-capacite-de-240-mw/.

156 Ivanhoe Mines, Annual Information Form for the Year ended December 31, 2016, 95.

157 Kipay, Presentation to Mining Indaba 2019.

158 "In the development of energy with the Inga dam, we have an opportunity to distribute energy to the whole of Africa. We have a global approach to the issue. I think if Inga develops in all its phases, up to phase 8, we will have 44,000 megawatts to provide." Excerpt from the speech delivered at the African CEO Forum in Kigali, March 26, 2019.

159 Inauguration speech, President Félix Tshisekedi, https://afrique.lalibre.be/31447/document-le-discours-dinvestiture-de-felix-tshisekedi/

160 Interview with Mr Bruno Kapandji, July 2019.

161 Idem. Interview with Bruno Kapandji, July 2019.

162 https://www.radiookapi.net/2019/04/03/actualite/politique/felix-tshisekedi-washington-la-relance-du-projet-inga-iii-au-menu-des ; https://www.rd-congoleaks.net/diplomatie/2019/04/04/le-projet-grand-inga-au-coeur-des-echanges-entre-felix-tshisekedi-et-rick ; http://afriqueinfomagazine.net/usafelix-tshisekedi-a-parle-energie-rick-perry/

163 Interviews with members of President Tshisekedi's cabinet between April and July 2019.

164 Interview with Bruno Kapandji, July 2019.

165 According to a former member of CGI3, recruitment of the concession holder should have been based on a Kw/h price. Mandundu interview October 2017.

166 Kapandji interview, October 2017.

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Resource Matters is a Brussels-based non-profit organisation that aims to better understand and overcome economic poverty in countries otherwise rich in natural resources. It has particular expertise in mining and hydropower investments in the Democratic Republic of Congo.

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