

US Sanctions Relief: Congo Is Not For Sale (CNPAV) Opposes Any Financial Compensation for the Return of Dan Gertler's Ill-Gotten Assets

Kinshasa, 1 August 2024 The Congo Is Not For Sale coalition has been following with concern the news of a possible easing of sanctions against Dan Gertler, sanctioned for his “opaque and corrupt” deals in the Congolese extractive sector. Such relief should only be possible through an agreement that is truly favorable to the DRC, including the return without financial compensation of Mr. Gertler’s ill-gotten assets. However, the coalition fears that the ongoing negotiations could lead to yet another illicit enrichment of Mr. Dan Gertler and calls on both the American and Congolese authorities to demand a fair and equitable solution for the population.

At first glance, the American authorities seem in favor of a return of the assets owned by Mr. Gertler. In an [interview with Bloomberg](#) on July 22, 2024, the influential US presidential advisor Amos Hochstein said that “the royalties that [Dan Gertler] has should be in the hands of the government of the DRC”, adding that “it’s an entirely absurd situation that the state is not benefiting more from their own natural resources.”

On this point, Congo Is Not For Sale shares his opinion. The royalties are intended to compensate for the loss of value of the Congolese subsoil. Logically, it should benefit the Congolese population, in this case through Gécamines and the Congolese Public Treasury.¹ It is illogical that an individual or his private company should receive this compensation.

Even if we admitted that the privatization of such a revenue was possible, it would have to strictly respect the rules. In fact, Gertler’s acquisition of royalties in the KCC, Mutanda and Metalkol projects was extremely opaque, without respect for Congolese law on state disengagement. There was no call for tenders, no adequate publication, and no government validation.

This opacity has allowed for an unspeakable illicit enrichment to the detriment of Congo, which is the very reason for the sanctions imposed in 2017. For example, the available

¹ See, for example, Article 39 of the Loi des Finances N.15/021 du 31 Décembre 2015 pour l’exercice 2016: <https://www.leganet.cd/Legislation/Dfiscal/Finances/Loi%2015.021.31.12.html>

contracts do not mention any sale price for the KCC royalties; other documents in the possession of CNPAV suggest that Mr. Gertler obtained these royalties without financial compensation. In the case of Mutanda, Mr. Gertler has already made a profit of more than \$1 billion, representing a return on investment of at least 600%. According to the [coalition's calculations](#), his company continues to earn more than \$250,000 on average per day from royalties from the three projects. This is money that could – and should – return to Congo.

For CNPAV, the solution is clear: all ill-gotten gains in Mr. Gertler's possession should be returned without financial compensation to the Congolese party. However, the opposite is likely to happen. Indeed, according to several sources consulted by CNPAV, the proposal currently on the negotiating table would be for Mr. Gertler to resell his royalties - either to Congo or to a third party. In concrete terms, the value of all the royalties that Mr. Gertler would receive in the future would be calculated today, and then the buyer would pay him this updated value to recover the royalties. In short, Congo would gain nothing in financial terms. Worse, the same type of transactions that led to it being sanctioned would be formally authorized, in particular the resale of mining assets acquired at a low price and under opaque conditions.

According to Mr. Gertler, a return without compensation would constitute an 'expropriation'. This implies that he holds that the acquisitions were legal and fair – arguments that the coalition has been challenging in vain for years.

The solution to end the debate is an independent audit of Mr. Gertler's transactions in the DRC. Such an audit should at a minimum cover all the assets that Mr. Gertler held at the time of the sanctions, including the acquisition procedures followed, the terms of the contracts and the gains made. The terms of reference and the detailed final report of the audit should be fully accessible to the Congolese population. Only such an audit prior to any possible easing of sanctions will reassure the population that their demands for transparency, fairness and respect for their rights have finally been heard.

However, Amos Hochstein has reportedly refused such an audit, [according to Africa Intelligence](#). He also claims that the sanctions penalize Congo by discouraging good investors. CNPAV does not share this opinion, not seeing how an agreement allowing Gertler to resell his ill-gotten gains would improve the business climate.



To date, US sanctions have been the only means of accountability for Dan Gertler's corruption in the country. Congo Is Not For Sale calls on both Congolese and American authorities to join its fight for a truly fair and equitable outcome for the Congolese population by demanding an independent audit prior to any lifting of sanctions and the return of any ill-gotten gains by the businessman and his network.

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