Natural Resource Governance Institute

Resource Governance Index

2021 Resource Governance Index

Democratic Republic of Congo

Oil and Gas

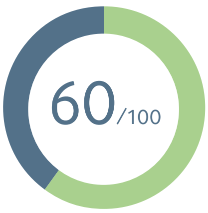
The oil and gas sector of the Democratic Republic of Congo (DRC) scored 38 points in the 2021 Resource Governance Index (RGI), increasing by three points since the 2020 Interim Evaluation. This score, which places the oil and gas sector in the "poor" performance band of the RGI, results from rules and practices in each of the index's three components: value realization (60 points), revenue management (37) and enabling environment (17).

- Since the 2020 Interim Evaluation, the DRC has not made significant progress in the management of its hydrocarbon sector.
- Gaps persist in the enforcement of established rules, especially around the publication of environmental and social impact assessments, environmental and social management plans and revenue sharing.
- The practices of the sector's state-owned enterprise, SONAHYDROC, are opaque; neither its financial reports nor a code of conduct are publicly available. Its website was not operational in the period covered by this assessment.
- The DRC's legal framework requires that the central government distributes 10 percent of oil revenues to producer communities to manage impacts. However, the central government is yet to share the revenues generated by oil activities.

DRC oil and gas: 2021 Resource Governance Index and component scores

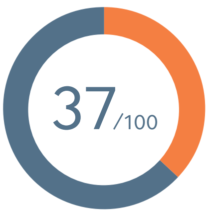
PERFORMANCE BANDS

- GOOD: Scores over 75
- SATISFACTORY: Scores 60-74
- WEAK: Scores 45-59
- POOR: Scores 30-44
- FAILING: Scores under 30



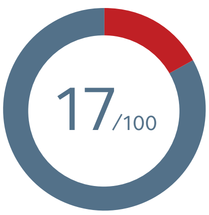
VALUE REALIZATION

Measure of the quality of governance regarding allocating extraction rights, exploration, production, environmental protection, revenue collection and state-owned enterprises



REVENUE MANAGEMENT

Measure of the quality of national budgeting, subnational resource revenue sharing and sovereign wealth funds



ENABLING ENVIRONMENT

Measure of the general quality of governance in the country

RESOURCE GOVERNANCE INDEX RESULTS SUMMARY

Despite a slight improvement in its overall score, the implementation of rules in the DRC remains inadequate

In the DRC, the hydrocarbon sector is governed by Law No. 15/012 of 1 August 2015, establishing the general hydrocarbons regime, and Decree No. 16/010 of 19 April 2016, on regulating hydrocarbons. Through this legal framework, the DRC has committed to promoting good governance and protecting the environment through the publication of information on contracts, payments and revenues.

In a context marked by problems of accountability and government effectiveness in controlling corruption, the three assessments conducted found progressively worsening gaps in the DRC between the quality of rules and their implementation in laws and practice: 6 points in the 2017 RGI, 11 points in the 2020 Interim Evaluation and 15 points in the 2021 RGI. The country's accession to the Extractive Industries Transparency Initiative (EITI) in 2005 marked the state's political will to improve transparency in natural resource management, including through the disclosure of data on all oil and gas operations, but the government still has to make significant efforts to implement its own laws.

Compared to the 2020 Interim Evaluation, the hydrocarbon sector has made slight progress of three points, increasing its score from 35 to 38 points in the 2021 assessment. Overall, the sector's governance remains in the "poor" performance band. In the 2020 Interim Evaluation, the sector had gained 10 points increase compared to the 2017 assessment, increasing its score from 25 to 35 largely due to improvements in hydrocarbon regulations and work on their application. Since the 2020 Interim Evaluation, two of the three components, revenue management and enabling environment, made slight progress of five points each, resulting in scores of 37 and 17 points respectively. The value realization component scored 60 points, a decrease of two points from the score of 62 in the 2020 Interim Evaluation. The government and DRC-EITI need to work together to address the significant gaps identified in the local impact, taxation, licensing and extractive resources revenue sharing subcomponents.

DRC oil and gas sector scores in the 2017 RGI, 2020 Interim Evaluation and 2021 RGI

	2017 RGI score	2020 Interim Evaluation score	2021 RGI score	Trend (2017-2021)
RGI COMPOSITE SCORE	25	35	38	13
VALUE REALIZATION	44	62	60	16
Licensing	46	65	64	18
Taxation	71	80	75	4
Local impact	33	58	58	25
State-owned enterprises	25	43	45	20
REVENUE MANAGEMENT	20	32	37	17
National budgeting	33	35	35	2
Subnational resource revenue sharing	8	29	39	31
Sovereign wealth funds	.	.	.	.
ENABLING ENVIRONMENT	12	12	17	5
Voice and accountability	22	13	24	2
Government effectiveness	5	9	7	2
Regulatory quality	12	12	11	-1
Rule of law	6	6	5	-1
Control of corruption	17	6	6	-11
Political stability and absence of violence	7	9	10	3
Open data	16	29	53	37
LAW	42	62	64	22
PRACTICE	36	51	49	13
GAP (PRACTICE LESS LAWS)	-6	-11	-15	-9

VALUE REALIZATION

The DRC would benefit from the implementation of the rules on licensing and environmental protection

Value realization covers four subcomponents: licensing, taxation, local impact and state-owned enterprise. It scored 60 in the 2021 RGI, remaining in the satisfactory performance band, as in the 2020 Interim Evaluation. Value realization has improved between the 2017 RGI and the 2020 Interim Evaluation due to the work done on transparency, particularly in relation to local impact, state-owned enterprises and licensing.

Licensing remained in the satisfactory performance band with a score of 64 out of 100, as in the 2020 Interim Evaluation. The 2021 RGI found that data on reserves and the oil cadaster is available on both the EITI-DRC and the Ministry of Hydrocarbons websites, demonstrating a step forward in terms of the transparency of the sector.

The constitution of the DRC, as amended by Law No. 11/002 of 20 January 2011, requires the president and members of the government to submit to the Constitutional Court a written declaration of their family assets, listing their financial assets, including stocks, shares, bonds, other securities and bank accounts; and their real property, including undeveloped land, forests, plantations and agricultural land, mines and all other fixed assets, with the corresponding titles. These declarations are not made public and could have been more explicitly listed in the Hydrocarbons Code or in Ordinance No. 07/065 of 3 September 2007, amending and supplementing Decree No. 05/160 of 18 November

2005 on the creation, organization and operation of the National EITI Committee in the DRC ("CN-ITIE/RDC"). Congolese law must also require the disclosure of financial interests for government representative and politically exposed persons..

The taxation subcomponent remains in the highest performance band with a score of 75, despite a five-point decline compared to the 2020 Interim Evaluation. Despite the work done since 2017 on the application of transparency rules, especially on the disclosure of production, payments and exports through the Central Bank and EITI-DRC websites, enforcement of the requirements for the good governance of natural resources remains flawed. Production, payments and exports data as presented on the EITI and Ministry websites are not disaggregated to the project level. In addition, there is still a lack of monitoring and systematic auditing and publication of reports by the Court of Auditors, the Ministry of Finance and the General Finance Inspectorate.

Transparency practices remain in the "weak" performance band regarding the local impact of extractive activities. With a score of 58 there remains a lack of disclosures of environmental assessments and studies, despite advances in laws and codes to protect the environment. Environmental (Article 21 of Law No. 11/009 of 9 July on protection of the environment) and oil and gas laws (157 of the Hydrocarbons Code) require the completion of environmental and social impact studies before any extraction, and these studies must also be disclosed. However, the Ministry of Hydrocarbons and the extractive companies have not yet published any environmental impact assessments or environmental mitigation management plans, which hinders progress toward achieving transparency objectives in the sector.

The state-owned enterprise assessed in the 2021 RGI is the Société Nationale des Hydrocarbures (SONAHYDROC, National Hydrocarbons Company), which is involved in the upstream and downstream oil activities. Over the course of three RGI assessments, it has moved up from the "failing" performance band in the 2017 RGI to "poor" in the 2020 Interim Evaluation and up again to "weak" in the 2021 RGI, with respective scores of 25, 43 and 45. The only significant progress made since the 2020 Interim Evaluation is the publication of the sums transferred by SONAHYDROC to the government in 2019. In practice, the state-owned enterprise has not published a single financial report during the period covered by this study. This represents a breach of requirement 2.6b of the EITI Standard, which requires disclosure of audited financial statements or main financial information (i.e. balance sheet, profit/loss statement, cash flows). The SONAHYDROC website was not yet operational at the time of this assessment, so systematic disclosure of financial information was not possible. Nevertheless, data on the company's joint participation in oil operations with private companies and on revenues and transfers to the government are available on the EITI-DRC website. The rules governing the sale of hydrocarbons by the SOE have not been defined and its code of conduct either does not exist or is not available to the public.

REVENUE MANAGEMENT

The absence of fiscal rules and a publicly accessible data portal hampers revenue management in the hydrocarbon sector

The revenue management component made greater progress in the 2020 Interim Evaluation, gaining 12 points; it progressed by just five points in the 2021 RGI, with a score of 37. This slight improvement was made possible by progress in revenue sharing. Article 19 of the 2015 Hydrocarbons Code announces the creation of a fund for future generations, the funds from which are to come from oil profits. In this regard, the 2011 Finance Law clearly sets out the rules for the distribution of revenues to producing communities: "...the withholding of 40% of category B revenue shall be made, for the benefit of the provinces in accordance with their contributory capacity and demographic weight, according to the terms laid down, pursuant to a joint decree of the ministers of the central power having finance and the budget in their respective attributions. With regard to oil revenues included in category B, an allocation of 10% of the share due to the provinces shall be attributed to the producing province as compensation, in particular to repair the environmental harm resulting from extraction."

However, the decree to organize the operation of the oil fund for future generations has not yet been adopted by the Prime Minister.

While the DRC demonstrates transparency in budgetary matters through the disclosure of revenues, spending and debts by the Ministry of Budget and the Central Bank, the government has not published its budget forecasts specific to extractive resources for 2019 and 2020.

Since the 2017 RGI, numerical fiscal rules to foster the monitoring or limiting public spending have not changed. Furthermore, there is still no online portal with information on reserves, production and exports – a guarantee of transparency and accountability for citizens.

ENABLING ENVIRONMENT

The failing enabling environment prohibits good management of the extractive sector

The index's third component draws on data from external and public sources, including the Worldwide Governance Indicators and the Open Data Inventory. This component covers broader governance indicators that affect activities in all sectors, based on indicators such as freedom of expression and accountability, government effectiveness, regulatory quality, rule of law, control of corruption, political stability and absence of violence, and open data.

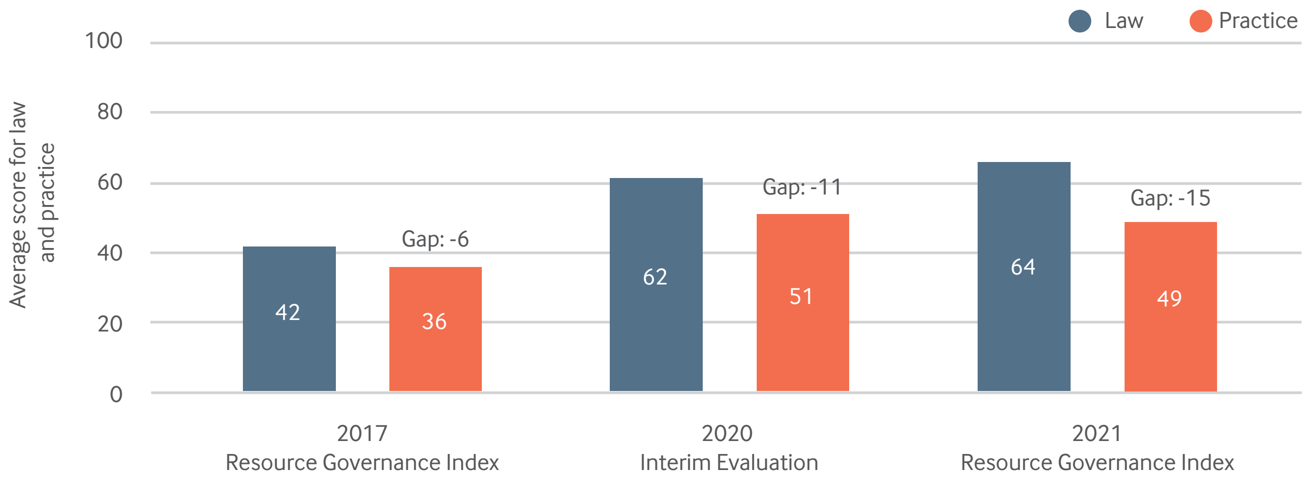
The DRC's enabling environment has improved by five points, from a score of 12 in the 2017 RGI and 2020 Interim Evaluation to 17 in the 2021 assessment. Despite this slight progress, however, this component remains in the "failing" performance band.

LAW AND PRACTICE SCORES

Enforcement of rules governing the hydrocarbon sector remains insufficient

In the 2021 RGI, the gap between existing legal frameworks and their enforcement in DRC's hydrocarbon sector is 15 points, the largest gap since the six-point gap in the 2017 RGI and the 11-point gap in the 2020 Interim Evaluation. The DRC has been undertaking legal reforms in the hydrocarbon sector for a number of years, but is still struggling to implement them. The gaps in local impact noted since the 2017 RGI remain constant (50 points in the 2017 RGI, 88 in the 2020 Interim Evaluation and the 2021 RGI) due to the lack of enforcement of the rules covering local impact, resource revenue transfer and licensing procedures.

Evolution of the gap between law and practice in DRC's oil and gas sector



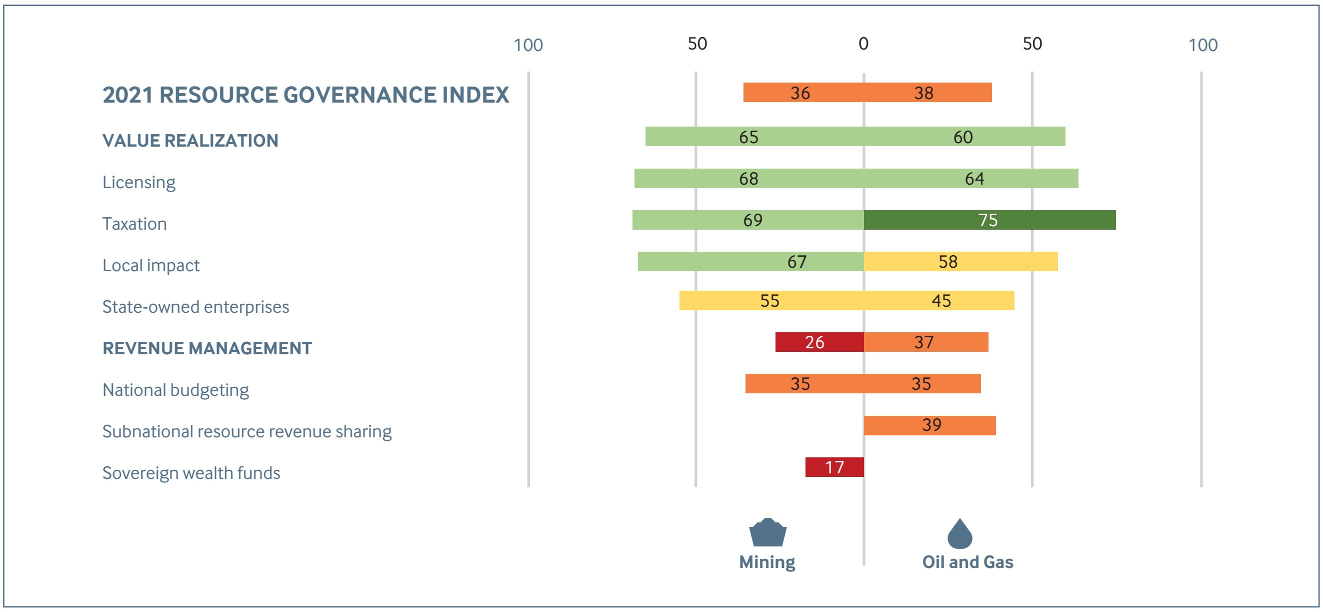
COMPARISON OF THE MINING AND OIL AND GAS SECTORS

The oil and gas sector performs better than mining, but both suffer from a gap in the enforcement of transparency rules

In addition to the oil and gas sector, NRGI has also assessed DRC's mining industry (presented in a separate profile). Governance of both the mining and hydrocarbons sectors is "poor." For both sectors, value realization is "satisfactory" with scores of 65 for mining and 60 for hydrocarbons. Hydrocarbon governance is better in terms of revenue management, although it remains in the "poor" performance band with a score of 37, while mining's score of 26 places it in the "failing" band. With respect to state-owned enterprises operating in the extractive sector, the governance of Gécamines appears to be stronger than that of SONAHYDROC, at least in terms of laws and regulations. Both state-owned enterprises fail to disclose their financial reports, which needs to be tackled by the government in order to improve transparency and accountability in the sector.

The two sectors also share some of the same governance problems, such as the non-disclosure of environmental and social impact studies and environmental and social management plans, the accountability of state-owned enterprises and the fight against conflicts of interest.

Comparison between the DRC's mining and oil and gas sectors in the 2021 Resource Governance Index



RECOMMENDATIONS

NRGI recommends the following courses of action to improve oil and gas sector governance in the DRC:

To the Prime Minister

- Establish mechanisms and policies to control corruption in the hydrocarbon sector and its overall environment.
- Require audits and the publication of annual and financial reports.
- Introduce a rule to monitor public spending in relation to SONAHYDROC.
- Sign the decree on the creation, organization and operation of the oil fund for future generations, or clarify the reasons for the non-operationalization of this fund.

To the Minister of Hydrocarbons

- Disclose all contracts and annexed documents in accordance with the Hydrocarbons Code.
- Establish and keep updated an oil register in accordance with the Hydrocarbons Code, and make it publicly accessible.
- Apply the legal requirements for transparency of the criteria for submission and procedural rules when tendering for oil licenses.
- Publish quarterly disaggregated statements of payments received by government entities from the various oil companies, preferably by project and region.
- Disclose up-to-date oil statistics, disaggregated by project and type of payment flow on the Ministry's website.
- Adopt a directive that incorporates into the legal framework for the hydrocarbon sector a requirement to disclose environmental impact studies and environmental and social management plans.
- Publish oil revenue projections.
- Require the publication of environmental impact study reports and management plans.
- Enforce the sanctions provided for by law in the event that the environmental impact study reports and management plans are not published on time.
- Publish data on the extractive sector's reserves, production, exports and revenues on a single online portal data.
- Implement the transfer of 10 percent of oil revenues to producer communities for environmental impact management and define the implementation rules and management institutions.

To SONAHYDROC

- Publish project-related production and sales data.
- Disclose environmental impact studies and plans for dealing with the impacts of projects in which SONAHYDROC is involved.
- Publish full reports on non-commercial activities.

To DRC EITI

- Require the creation of a common portal for full statistical data on hydrocarbons.

What is the Resource Governance Index?

The 2021 RGI assesses how 18 resource-rich countries govern their oil, gas and mineral wealth. The index composite score is made up of three components. Two measure key characteristics of the extractives sector – value realization and revenue management – and a third captures the broader context of governance — the enabling environment. These three overarching dimensions of governance consist of 14 subcomponents, which comprise 51 indicators, which are calculated by aggregating 136 questions.

Independent researchers, overseen by NRGI, in each of the 18 countries completed a questionnaire to gather primary data on value realization and revenue management. For the third component, the RGI draws on external data from over 20 international organizations. The assessment covers the period 2019-2020. For more information on the index and how it was constructed, review the RGI Method Paper.

Natural Resource Governance Institute

The Natural Resource Governance Institute, an independent, non-profit organization, helps people to realize the benefits of their countries' oil, gas and mineral wealth through applied research, and innovative approaches to capacity development, technical advice and advocacy.

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