

South Sudan: prepayments in a conflict zone

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South Sudan, independent since 2011 and in civil war from 2013, is the third country, alongside Chad and the Republic of the Congo, where trading houses have been the main providers of oil-backed loans.¹ The country, whose oil accounts for almost all public revenues and whose production is exported through a pipeline crossing Sudan, sold cargoes in advance to international traders to finance a state at war. Non-governmental organisations have denounced the terms of these sales as contributing to the conflict and to predation by the elites.² The war in Sudan since 2023, which has threatened the pipeline and the export facilities, has added a physical risk to commitments that were already fragile.

This case raises the chapter's limiting question: can a Geneva trading house prepay a state whose budget is absorbed by war, which is under partial sanctions, which has no parliamentary control of borrowing and whose leaders are suspected of embezzlement? The answer given by the law is nuanced, since the international sanctions against South Sudan, adopted by Switzerland, concern arms and designated persons and do not prohibit trade in oil.³ The answer given by compliance, as Part H described it, lies in the analysis of the risks of corruption, money laundering and human rights violations, which leads most of the major houses to abstain or to operate only with extensive safeguards. The answer given by reputation is simpler: the Chad and Congo cases have shown that prepayments granted to fragile states come back, years later, before the courts, the parliaments and the press.

1 Notes

1. Natural Resource Governance Institute, “Les gouvernements africains doivent faire la lumière sur les prêts adossés aux ressources naturelles”

[African governments must shed light on resource-backed loans], 2023.

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2. International Crisis Group, Oil or Nothing: Dealing with South Sudan's Bleeding Finances, Report No. 305, 6 October 2021: traders named (Trafigura, Sahara Energy Resources DMCC, B.B. Energy, Glencore, Trinity Energy, Vitol); Trafigura around USD 300 million in prepayments between March 2013 and May 2018; "As of April 2021, South Sudan still owed Sahara Energy \$99 million"; recommendations: a single oil revenue account, an obligation for traders to publish their payments to Juba, conditionality of IMF and donor support. ↩
3. SECO, "Mesures à l'encontre de la République du Soudan du Sud" [Measures against the Republic of South Sudan] (seco.admin.ch), ordinance implementing the Security Council resolutions (arms embargo, asset freeze, travel ban); United Nations, meetings coverage, SC/13421, 13 July 2018: resolution 2428 (2018) adding an arms embargo to the sanctions imposed on South Sudan; International Crisis Group, 6 October 2021. ↩

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