



good deal  
bad deal

Report of the Conference  
“Illegal Trade in Natural Resources - What can Brussels do?”

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Brussels, 30 September 2010

November 2010

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## Report of the Conference “Illegal Trade in Natural Resources What can Brussels do?”

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Conference webpage:

<http://www.envirosecurity.org/pathfinder/conference/index.php>

Géraud de Ville

November 2010

**Institute for Environmental Security**

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## Report of the conference

### “Illegal Trade in Natural Resources - What can Brussels do?”

Brussels, 30 September 2010

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The conference was organised by the Institute for Environmental Security in the context of the ESPA Pathfinder Project on Illegal Trade in Natural Resources from Conflict Zones in association with the European Economic and Social Committee (EESC) and the Belgian Presidency of the Council of the European Union, with the support of The Netherlands Ministry of Foreign Affairs.

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## I. Foreword: The Why, What, When and How of the Conference

Natural resources are the backbone of the global economy. Many emerging economies are based on exporting natural resources to industrialised countries fuelling global markets in much needed raw materials. In accountable States, the income generated should be used to serve development needs, for example to finance the construction of infrastructures or programmes for poverty alleviation. However, governments sometimes lack the capacity or the legitimacy to regulate the exploitation of these assets. In these cases, natural resources can become a cause for corruption, social disputes and even violent conflicts.

The problem is well known. In countries plagued by weak governance and in conflict-ridden countries, the governments are incapable of controlling domestic resources that are being exploited criminally. These illegally extracted resources are exported owing to illegal doings of corrupt businessmen, rebels and also state and military officials. Once these goods leave their country of origin, they are often treated as legal commodities in importing countries. As Professor Wenar from King's College London puts it "the priority in reforming global commerce is not to replace free trade with fair trade. The priority is to create trade where now there is theft".

A recent report on The Globalization of Crime<sup>1</sup> by the United Nations Office on Drugs and Crime (UNODC) ranks trafficking in environmental resources second only to drug trafficking in terms of generating the most dangerous flow of profit. Ultimately, this trade in illegally extracted natural resources deprives developing countries and their citizens of their right to development. Not only does it endanger national and international

security but is also harmful to ecosystem conservation and undermines the moral values of all market participants.

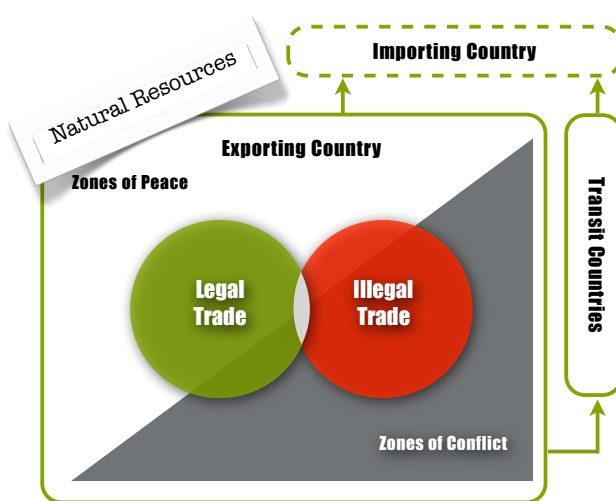
Importing countries are a key link in this dark picture as they unintentionally provide the finances that reinforce bad elements in the system. Therefore greater attention should be dedicated to their role and responsibilities. A central element in the Institute for Environmental Security's "Pathfinder Programme" on new legal mechanisms to combat trade in illegally extracted natural resources was the organisation of a state-of-the-art conference in Brussels. The idea was not to focus on one specific resource such as timber or minerals or on a specific region or country such as the DRC or Indonesia but to build bridges between practitioners and policy makers and try to understand what a regional power such as the European Union could do to help combat trade in illegally extracted natural resources.

The event took place on 29-30 September 2010 in the European Economic and Social Committee. The timing of the conference was appropriate since this year the European Parliament voted in

favour of the regulation that bans the import of illegally extracted timber and timber products into the EU. Although the legislation focuses solely on timber, this is a good achievement and it shows that the EU has the enormous potential to restrict trade in illegally extracted natural resources.

The main objectives of the conference were:

- To raise awareness of policy makers by providing global overview of the issues at stake through various perspectives (environment, trade, development, peace & security).
- To offer an opportunity for policy makers, researchers, NGOs, IGOs and the private sector to participate and exchange ideas on how to



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<sup>1</sup> *The Globalization of Crime. A Transnational Organized Crime Threat Assessment*, UNODC, Vienna, 2010, p. 276

improve the fight against the import of illegally extracted natural resources in the European Union.

- To propose concrete steps that the European Union could take to positively impact global natural resources governance and support the fight against corruption and crime based on illegal exploitation of natural resources.

The conference succeeded in achieving most of its objectives. It shed light on the problem and the political and economic analysis of illegal trade in natural resources. It brought together a multidisciplinary mix of representatives from the EU, the UN, NGOs, the private sector, the media and academics. Responsibilities of the private sector were well highlighted by several speakers and participants. Most importantly, the conference gave an impetus to the debate at the EU level. Although the recommendations were not exhaustive, the ideas put forward should contribute to new approaches and solutions. A key follow up proposal was to set up a Resource Trade Network (RTN) in order to continue exchanging information and ideas to raise the question of trade in illegally extracted natural resources higher up on the political agenda.

The IES wishes to thank the European Economic and Social Committee for hosting the conference at its headquarters and The Netherlands Ministry of Foreign Affairs for its support in the context of the IES programme on Environmental Security for Poverty Alleviation which includes the Pathfinder Programme on Restricting the Import of Illegally Extracted Natural Resources from Conflict Zones.

We also wish to thank the several organisations who helped to develop the programme and plan the conference. These organisations include the Bonn International Centre for Conversion (BICC), GLOBE EU, International Alert, the International Institute for Sustainable Development (IISD), the Madariaga-College of Europe Foundation, Transparency International, the Stockholm International Peace Research Institute (SIPRI) and the Worldwatch Institute. We are also especially grateful to the moderators and speakers for their enlightening contributions to the conference and to this report.

We hope the report and the establishment of the Resource Trade Network (RTN) will help inspire future debate and policy action in this area which is so important to the prospects for environmental

security, sustainable development and peace.



## II. Message to the Participants



**Senator Sanaullah Baloch**  
**Balochistan Institute for**  
**Development, Pakistan**

"Ladies and Gentlemen,

We are gathered here today because we recognise the role that we as individuals and representatives play in furthering the destruction of the environment and human security if we turn a blind eye and continue commerce in the same ways we have been. While it is easy for most people to overlook the consequences of environmental abuse because it is not down the street from their homes, you are here because you recognise that the effects are occurring on the street of someone else's.

In fact, across the globe, communities of already suffering people are plunged into even more desperate situation because of looting of their natural wealth, unlawful expropriation and illegal natural resource trading. This does not only deprive them from their natural belonging but evolves in a cycle of miseries, including conflicts, civil war, humanitarian and human rights crisis, insecurity and endless poverty and hunger.

From the copper extraction in Congo, to the illegal logging of Malaysia, or unlawful expropriation of Uranium and dumping waste in Balochistan, to the illegal mineral and marble trade in Afghanistan, unlawful oil and petroleum products trade in Iraq and Iran and gem mining in Sri Lanka, our world is plagued by tragic exploitation of the land and people.

My home land, resource-rich Balochistan, Pakistan's South Western province, located very close to the oil lanes of the Persian Gulf and having a common border with Iran and Afghanistan is a strategically very significant region. Commanding almost the entire coast of the country, Balochistan accounts for 43% of Pakistan's territory and 45% of its natural gas production. The region has long been exploited for its strategic land, marine resources, uranium, coal, marble and countless minerals and resources. But the Baloch people remain the most poor, illiterate, and destitute in

the entire nation reporting only a 0.2% growth in GDP in 30 years.

Though we will be discussing illegal exploitation and trade in natural resources, we should not forget that large number of States including Pakistan shrewdly provide legal cover to illegally extracted and expropriated natural resources traded by Pakistani and Chinese companies.

The fortified Saindak copper-gold project, in Balochistan's remote Chagi hills is an evident case of forceful and illegal exploitation and trade in natural resources under State protection.

Balochistan is not the only case - in many parts of the world conflicts, wars, miseries, hunger and disease are caused due to injustices, looting and plundering of natural wealth of marginalised communities by powerful States, mafia organisations and multi-national corporations.

The illegitimate policies of parent States themselves tend to elicit exploitative practices with regards to its own people and set the perfect stage for non-state actors, groups and violent organisations to gain legitimate positioning in the minds of exploited people in harvesting natural resources illegally.

Due to the illicit and irresponsible extraction of natural resources the environment and human security all are being compromised. In fact, developmentally, all resource rich people in Asia, Africa, and South America including my homeland Balochistan lag much behind in all 10 key social indicators.

Unfortunately across the globe, communities of already desperate people are being cheated not only by insurgent groups, but by their own governments and their partner government and companies. What these situations reveal, is that it is becoming more and more difficult to differentiate between legal resource trading and what is illegal exploitation. Essentially, a cloud of grey has been formed around illegally extracted resources that allows them to eventually be sold as a part of the legal market. It is imperative that we find means of breaking through that cloud in order to define resources again in black and white.

When examining the question "What can Brussels do?" I believe that the solutions should take on a multi-dimensional approach – simply the bottom-up and the top-down actions to tackle the problem from both the supply side and the demand side.

To influence the supply a bottom-up approach is needed. The international community should consider intensive mediation of relationship-building activities between local organisations and their federal governments. At the moment, most of the regions being destroyed by illegal exploitation demonstrate a complete lack of confidence in their national government. And when a poverty-stricken population is better off working with mafia organisations and groups doing illegal extraction than with legal sources, it is highly improbable that illegal resource trading could be contained.

However, by increasing means of communication and willingness to discuss issues openly, confidence between parties will grow. This will engage local communities because they will feel like equal participants in the wealth-sharing from trade and production. By engaging local communities, the supply of illegal resources will be hindered because locals can be the most accurate sources in reporting of illegal activities.

Another fundamental aspect of mediation for relationship-building activities is the fostering of confidence that local groups and federal governments have in the international community. The international community needs to show that it is united behind the cause of fighting illegal natural resource trading.

To influence the demand a top-down approach is needed. Currently numerous countries where illegal exploitation in natural resources are common happening are trade partners of the EU.

Brussels can influence the demand by employing international actions such as pushing forward regulations, liberalising trade barriers, and imposing sanctions when necessary. If the international community, led by large powers such as the EU, mandated that all trading partners show evidence that their products come from legal sources, the demand for illegally acquired natural resources would have to be re-drawn. Because the EU has established such strong trading ties through the Economic Partnership Agreements with countries like China, Switzerland, and the African-Caribbean-Pacific nations, the EU is in a perfect position for encouraging wide-ranging trade co-operation on services and standards.

The trading of illegal resources is weakening too many nations across the globe wrecking their environment, furthering insecurity, causing endless conflicts, resulting in to civil wars, worsening

human rights situations and hindering pro-people development in the short and long run.

In addition:

- Brussels could play a pivotal role in promoting and protection of the Right to Permanent Sovereignty of People and States over Natural Resources enshrined in the UN General Assembly Resolution 1803 (XVII) of 1962: The illegal exploitation and trade of natural resources shall be considered as a violation of the right of people and member states;
- Brussels should establish independent specialised bodies responsible for mapping conflict resources, combating the illegal exploitation and trade of natural resources
- Brussels could discourage illicit trade by introducing a comprehensive Mechanism for the Certification of natural resources: the set of policies, laws and regulations to serve as a tool for combating the illegal exploitation of natural resources. This mechanism shall institute accredited standards as regards natural resource exploitation and shall include provisions on certification of origin including labelling, monitoring, supervision and verification;
- The EU must encourage its trade partners and aid recipient countries to review their national legislation on the illegal exploitation of natural resources to ensure that they comply with the provisions of relevant international instruments and legal norms;
- Promote the participation of civil society and non-governmental organisations in detecting and preventing acts, or means of exploiting natural resources illegally.

Starting here, starting now, we must take on the challenge to end the stealing of resources. We must attack forcefully from both the supply side and demand side of the issue and we must act as a united global force to convey to the resource bandits that their detrimental actions will certainly yield harsh consequence.

Thank you!"



### III. Problem - Illegal trade in natural resources, a global issue and the limits to existing tools



**Josef Zboril**  
Member, Employer's Group,  
European Economic and Social  
Committee

Josef Zboril welcomed everyone at the European Economic and Social Committee (EESC) and briefly described the institution as a platform to reconcile different views and to focus on suggesting plausible solutions to discussed issues. The Committee consists of three equal bodies, groups of employers, employees and various interests (consumer organisations, NGOs), he continued. The aim of their activities is to provide a view of civic society on a number of issues that are dealt with in the EU in the most balanced way.

Illegal trade in natural resources and also in primary and secondary raw material is a concern for the EESC, Zboril explained. Traders are very inventive, he noted, and we are always a step behind them. This is why we should act very fast and in a very organised way.

Josef Zboril proceeded by arguing that European employers and employees want to produce high-quality products that do not make worse the loss of biodiversity, environmental pollution, exploitation of workers or provide funding for local warlords. Consumers themselves are asking more and more for goods that also have a proven ethical record, he noted. At the same time, European businesses are often exposed to strong competition from other parts of the world. It is important, in order to have a level playing field that all market players are living up to high standards when it comes to acquiring raw materials. Thorough and fair international cooperation is therefore needed to address this problem, the speaker remarked.

The EESC has already been active on this issue in the field of timber and timber products, he

continued. Last year, it largely expressed support for the Commission's *Proposal for a Regulation laying down the obligations of operators who place timber and timber products on the market*<sup>2</sup>. But although illegal logging is having a big impact on biodiversity, carbon storage and the livelihoods of local populations, timber is not the only raw material where action on illegal trade is needed, he observed. The EESC is currently discussing an opinion on access to secondary raw materials that are collected in the EU and disappear in third countries at the expense of EU taxpayers.

That is why the Committee will be listening very carefully to what the experts here present will have to say on these topics and feed it into their work, Zboril concluded.



**Harrison Mitchell**  
Director, Resource Consulting  
Services

Harrison Mitchell's presentation focused on the situation in Eastern Democratic Republic of Congo (EDRC) and the context of the discussion about illegality, particularly the limitations to current approaches in dealing with these various forms of illegality.

Mitchell began by giving a brief overview of conflict minerals in EDRC, the main ones being gold, tin, wolfram and coltan. In terms of figures, in 2008, 250 million USD of tin was exported; coltan and wolfram account for 50 million USD. Gold exports are difficult to estimate as it is entirely underground, he noted. This trade connects internationally. In the case of tin, there are middlemen operating directly out of Belgium and elsewhere. They however tend to only pass the tin to smelters in Asia and then it enters the supply chain which can be a dozen hands before it reaches back European consumers as transformed products, he noted.

In terms of the political economy of the control of the trade, it has changed significantly from a wholesale, state-sponsored resource extraction situation depicted in the UN reports to now a situation which is largely controlled by political and

<sup>2</sup> <http://www.europarl.europa.eu/oeil/FindByProcnum.do?lang=en&procnum=COD/2008/0198> ;

military elites and at the very bottom private individuals doing artisanal mining, he noted. Armed groups have both direct and indirect control of the trade. Therefore there is again a shift from wholesale extraction by military companies to now a pattern which is largely deriving from taxation of transport routes, coercion, protection and rackets. Military elites are also directly investing in mining. The human rights situation varies from very severe to a pseudo government structure set up by armed groups over certain areas, he observed.

Mitchell proceeded by saying that there are a couple of problems in the current discourse on illegal trade. Illegality is a loosely defined term and is applied to all actors. "We see two kinds of activities that are both illegal but must be dealt with separately in order to have appropriate responses," he argued.

- Illegal - Illegitimate activities (vs. legitimate)

- Illegal - Informal activity (vs. formal activity)

In the context of EDRC, regardless of the origin of minerals, there is a formalisation process on the way to the point of export, he noted. This is a fairly typical occurrence in resource-dependent developing economies because it is easier to tax at the point of export as opposed to taxing thousands of artisanal miners. Therefore, the taxation and concentration of interest from the government point of view tends to happen at the point of export.

The speaker then proposed to separate the various stake-holders according to the illegal-illegitimate/illegal-informal distinction. Armed groups are usually branded as illegal-illegitimate as they undertake coercive and violent activities, human rights abuses and illegal taxation. Traders are involved in some illegitimate and some informal activities depending on whether they work without a licence, buy from armed groups or take part in smuggling activities. Artisanal miners and communities typically engage in informal activities. They have no license and face health and safety issues.

The DRC has a health and safety law which is relatively comprehensive because it was written by the World Bank, but there is no way in which these artisanal miners know about these laws for one nor

are they able to apply them, Mitchell observed. They are technically operating illegally, but more so because they do not have the skills or capacity to do so legally.

The distinction is important, he argued, because there is a big difference between violent activities of armed groups and informal activities of artisanal miners who are essentially struggling to survive. Hence they require different measures which should be proportional, appropriate and effective. At the moment, the responses tend to be chunked

"There is a shift from wholesale extraction by military companies to now a pattern which is largely deriving from taxation of transport routes, coercion, protection and rackets"

Harrison Mitchell

together into one kind of big response, he noted.

A few ideas in terms of responses could be:

- Armed groups, which are clearly the worst actors in this scenario, should have a security sector reform (SSR) response;
- Traders should face a stick and carrot response to encourage formalisation and discourage collusion with armed group;
- Artisanal miners are the most vulnerable and, for them, a developmental approach is needed to encourage formalisation of their activities and essentially to make them comply with the law.

Currently the discourse at the international level is focused mainly on punitive measures or control measures, he continued.

- 1) Punitive measures focus on illegitimate activities and include sanctions, bans or embargoes, arrests, etc.
- 2) Control measures tend to focus on and try to improve the informal issues. Such measures include certification, due diligence and supply-chain assurance.

There is not much enthusiasm for developmental approaches since they are expensive, time-consuming and deal with problems of artisanal miners that tend to be complicated.

But these current approaches have limitations, he remarked:

- 1) The punitive course seems to have run its course after years of pretty unsuccessful attempts by the UN to stop this trade using various individual and collective sanctions, he explained. Bans on the trade do not seem to work either, especially in cases where significant proportions of the trade is already completely informal, for example the gold trade. If you take the ban/sanction route, it tends to push the trade into the underground, making it harder to control.

In addition, he continued, it is important to note that for these kind of approaches, military and political elite benefits can be easily hidden behind the corporate veil. Even though we might reform the trade and bring it into the formal economy, it is very difficult to remove these entrenched interests of the elites in the trade.

- 2) The control measures (certification, supply chain assurance, due diligence) are currently the most popular approaches. This is essentially trying to assure the supply chain so that bad elements are excluded from the trade. They are very effective for the economy, for the formal trade, for taxation and for business, he admitted. However, there are a couple of caveats, they largely affect illegal informal activities and not violent illegal activities. It is hard to see what kind of impact these control measures will have on the armed groups operating in EDRC.

Armed groups target mineral trade because it is the largest economic driver in the region, Mitchell continued. So they can easily shift their focus onto the next one such as charcoal or cheese trade or simply tax the routes going in and out of villages. It is important to bear in mind that when we think of certification excluding these bad elements we may not necessarily be able to have any impact on the armed groups element, he argued.

The speaker then highlighted that an important approach that is missing from these schemes is the developmental approach/the capacity building and governance approach. Artisanal Miners are pretty much excluded from these measures, primarily because they are considered too much of a problem, requiring too much investment (terrible health and safety conditions, etc.)

Another issue concerns the military: the Security Sector Reform has fallen off the agenda, he deplored. Currently the approach is mostly one of 'sticks' towards the private sector, but there is a real danger of total withdrawal of legitimate actors to this area which would be a disaster in terms of ambitions for the international community. The legitimate private sector actors need to stay engaged so that they can help reform the sector from the inside. The private sector also needs help at the local level. Therefore, Mitchell concluded, an overall capacity building at the government, NGO and private sector levels is crucial.



**Joost Van Der Zwan**  
**Economy & Peacebuilding,**  
**International Alert**

Adopting a broader perspective, Joost Van Der Zwan's presentation further insisted on the importance to treat distinct situations differently and to understand the dynamics of illegal trade and their stake-holders before trying to design solutions.

#### **Importance of untangling the concept of legality**

He explained that the concept of what is legal and illegal trade in natural resources, and according to whom is crucial. Therefore, the question we need to ask ourselves is why in certain cases or countries is the trade in certain natural resources considered to be outside of existing legal frameworks. Is the trade illegal because it causes violent conflict? Is the trade illegal because the resources are controlled by non-state armed groups, or because they are smuggled across borders? Or is the trade deemed illegal because ruling elites do not control it? There are no easy answers, he continued, and in these situations it is important to carry out detailed conflict and power analyses to understand who benefits from the status quo, and who would benefit if the situation changed.

The bottom line is that the exploitation of natural resources is rarely equitable or transparent, he noted. Deeming the trade in a certain natural resource illegal or calling them 'conflict minerals' does not address the multitude of problems in

“The bottom line is that the exploitation of natural resources is rarely equitable or transparent”

Joost Van Der Zwan

fragile and war-torn states, it just complicates the solutions.

What should be pushed for?, asked Van Der Zwan. The concept of illegality needs to be approached not from a clear cut, black or white perspective, but from the in-depth understanding of the political economy of the situation, who is benefiting from the trade in resources and how does it relate to the overall analysis of the conflict, he argued. A blanket ban on mineral resources exports, as currently seen in Congo, might stop some of the illegal trade, but does not address the inherent and complex problems, including armed militias, land conflict, communal tensions, state weakness and numerous failed demobilisation programs and Security Sector Reform (SSR) processes. Instead, the ban might actually result in increased smuggling to neighbouring countries and increased predation by state and non-state actors on local populations to make up for lost revenue, Van Der Zwan warned.

### **The need for policy-makers to understand what is broken before trying to fix it**

The speaker then explained that the presence of natural resources can contribute to the outbreak of conflict as different parties compete for control over resource-rich territory, fuel conflict through revenues generated by extractive resources, and undermine peace processes as powerful individuals and groups refuse to give up what they regard as their fair share of the spoils.

Carrying out political economy and detailed conflict analyses can shed light on the different relations between actors and help policy-makers design and implement interventions in a conflict-sensitive manner, Van Der Zwan argued.

First and foremost, policy-makers and practitioners need to understand that technical trade control measures will not resolve conflict. The underlying importance of addressing State weakness and ability to secure its own resources and borders is crucial, he noted. Reinforcing key institutions

involved in the management of natural resources can be far more beneficial than making trade in certain resources illegal. In parallel, in-depth analysis of the legal and regulatory framework should reveal the most pressing priorities for longer-term in-country reform.

### **International initiatives are not the panacea that some make them out to be**

Van Der Zwan remained prudent as to the efficiency of some international initiatives to put an end to conflict resources. In the absence of an overall international regulatory framework for responsible investment in conflict-affected areas with significant natural resources, a number of initiatives have been created to fill the legal vacuum - EITI, VPs, the Equator Principles, the UN Global Compact, and OECD due diligence guidelines, he observed.

The high profile of international standards and initiatives that aim to improve the management and transparency of natural resource wealth in developing countries tends to ensure serious attention from national governments, the private sector and civil society alike, he noted. As a result, they can bring together different parties, stimulate debate and encourage reforms that might be more difficult to promote outside or without such processes.

Van Der Zwan insisted that the key for Brussels is to promote the engagement with the most relevant initiatives for the specific context and ensure that in-country stake-holders receive the necessary external support to derive maximum benefits for reform and implementation efforts. At the same time, donors need to support the institutional capacity building process of the state to be able to deliver better natural resource governance and transparency. External support for implementation can lead to better results provided it does not undermine local ownership and action.

In concluding, the speaker summed up some of the key messages of his presentation and recommended that greater attention be paid to them:

- Wanting to label trade in natural resources in conflict contexts in clear cut terms as legal or illegal is not always helpful;

- There is a need for ongoing dialogue between civil society organisations, business and international organisations regarding the governance of, and extraction and trade in, natural resources. Responsible resource extraction and processing companies can play a key role in improving wider governance conditions within the sector;
- The importance of transparency and accountability with regard to government management of natural wealth and the revenues it generates is crucial, and all stake-holders need to work towards these goals, specifically in strengthening state institutions, governance and accountability;
- There is great potential for international standards and initiatives to provide guidance and set benchmarks for various public and private actors involved in natural resource extraction and trade, but the key ingredient is local/national ownership of the processes and their implementation.

The bottom line is that trade is a necessary catalyst for social and economic development, he continued, but economic activity and trade left to its own devices can often do more harm than good in conflict-prone or conflict-affected environments. However, there is no silver bullet to address the trade in natural resources in these contexts.

The exploitation and trade in natural resources, Van Der Zwan concluded, is one of the few ways in which poor underdeveloped, but resource-rich countries have to increase and expand the social and economic development opportunities for its citizens. Helping these countries achieve this is about first and foremost supporting the state's capacity to govern the extractive sectors, society's capacity to ensure the state and the private sector's accountability, and raising the private sector's awareness of conflict-sensitive business practices.



**Ruben de Koning**  
 Researcher, Stockholm  
 International Peace Research  
 Institute (SIPRI)

Ruben de Koning commenced his presentation with the example of Cameroon's timber industry to illustrate different interpretation of illegal resource trade. He said that going through the literature there seemed to be a rather strong consensus of the

rate of illegal trade in Cameroon. Publications kept repeating a figure of 50 %: a figure that has been interpreted in various ways and ultimately derived from one source. The figure was for instance quoted in a 2006 WWF report, as the rate of illegal exports. This figure was drawn from another WWF news article in 2005, which talks about the share of illegally harvested timber as part of total production. A same interpretation of volume of timber was made in a Finnish Indufor publication of 2004. Both the 2004 and 2005 publications refer to a WWF source in 2002 that says that 50 % of logging in Cameroon is illegal, which is taken from an estimate (no research) by a local NGO (Cerutti 2006).

What has happened, de Koning noted, is that an estimate of logging operations that are illegal – for instance the number of companies that cut outside legal concession – is interpreted as the volume of illegally harvested timber. This is a first error. A second error is to interpret the percentage of production of timber as the percentage of illegal exports. An appropriate way of interpreting illegal exports would be either to refer to volumes smuggled across the border, or to under declare legally exported timber.

This example of misinterpretation, de Koning said, points to the need to distinguish between three categories or aspects of illegality in the international trade in natural resources:

1. Illegal extraction (for instance extraction outside legal limits, on unallocated land, by unauthorised players, or by not observing regulations);
2. Illegal exports (smuggling and under-declaring);
3. Other illegalities associated with (otherwise legal) trade such as illegal taxation and bribe payments for instance to obtain legal documents.

The second category is probably most suited to quantification, he argued; that is, by comparing registered or estimated production, recorded exports, and recorded imports in consumer countries. The last category not quantifiable in volumes traded subject to illegal transactions. The first category, which is perhaps the most important because of its negative impacts, is sometimes quantifiable but this demands careful grassroots research, which is simply not available at all times. The danger is to go by any figure available and use it for something else.

To the question: what is the share of illegal trade in natural resources in comparison with global trade?, there are no easy answers, not even per country, de Koning explained. First, one must define which of the above categories, and further which aspect, is examined. In Cameroon for example, research showed that logging outside industrial concessions has significantly reduced as a result of better delimitation and mapping techniques and stricter controls. At the same time, a government suspension of all small scale logging outside the permanent forest estate – and subsequent widespread ignorance of this measure – offset this reduction. So changes have occurred but are hidden behind a stable figure of illegal timber trade, he admitted.

Being specific is not only important for analytical purposes but also in terms of designing interventions to curb illegal trade. What do you try to address?, de Koning asked. If the key problem is that governments are deprived of export revenues, it makes sense to shore up export controls. If the security aspect were the main concern, one would for instance need to address illicit taxation by military actors. To address environmental impacts of illegal extraction domestic law enforcement and field monitoring is important.

Ruben de Koning then focused specifically on trade measures, arguing that any trade intervention must go beyond verifying whether export documents are in order and taxes are paid. In this sense the Kimberley process for diamonds has many shortcomings in that it does not trace minerals to mine of origin, he continued, let alone verify governance standards at the production level. Problem presents itself now in relation to Zimbabwe, where KP appear ill-equipped to deal with political involvement, military control and human rights violations associated with diamond sector. Recent Kimberley certification of Zimbabwean exports is widely criticised and may weaken US and EU sanctions targeted against the state company which took over the most important diamond fields in 2006.

Compared to the Kimberley Process for diamonds EU-FLEGT goes much further as it emphasises the legality of domestic timber production and trade in

partner countries, de Koning explained. Legality is based on national forestry, fiscal and environmental laws and regulations, before it is ultimately certified and exported to the EU. However, implementation requires certain governance capacity which takes

long to develop, he noted, and even where this is established the system is vulnerable to fraud and corruption and potentially biased against forest or mining dependent

communities and small-scale domestic producers that are unable to comply with standards; for instance those in Cameroon exploiting community forests whose operations were suspended.

The speaker then insisted on a critical question that concerns the quality of domestic law enforcement that follows or is part of an international law or market-based compliance mechanism. As much as illegal trade can negatively affect rural people's lives, so can law enforcement against it, he continued, as it often uniquely targets informal activities of local communities and poorer households that usually have no legal title to land and resources. Meanwhile, non-authorized military and political players are usually able to evade stricter law enforcement that results from nationally or internationally imposed embargoes, suspensions or trade restrictions. These risks are particularly great in conflict and post-conflict contexts, where rule of law is absent, he remarked.

Ruben de Koning then referred to the situation in DRC to illustrate these difficulties. The government in the beginning of September 2010 suddenly announced a complete ban on all artisanal mining activity in the east in order to help stop the violence, some of which has evolved around the control of critical mines. The ban came a few weeks after the US senate passed a law obliging processors and end users sourcing minerals in the Great Lakes region to practice due diligence on the conflict free origin of their minerals. While there may be several other reasons, the government has probably wanted to demonstrate to the International community that is taking firm domestic action in response to stricter import laws in consumer countries. The ban seems a rather ad-hoc and unintended consequence of legal action in US, he

“(Just) as much as illegal trade can negatively affect rural people’s lives, so can law enforcement against it”

Ruben de Koning

observed, we are not sure we should be happy with, considering the quality of enforcement.

He continued by saying that miners and small-scale traders are complaining that authorities misuse the law to confiscate their minerals. And while diggers are chased out of the mines some military commanders keep having teams working for them. Due to the difficult implementation of the ban, smuggling networks will flourish, in turn, offering better opportunities for non-authorized actors to engage. Cleaning up the sector with a ban alone will not have much effect if it is not accompanied by efforts that radically change governance in the mines and prosecute main violators in military and administration involved in illegal taxation and trading activities, he insisted.

Summarising from the above accounts, de Koning noted that:

- Commodity chains of natural resources from developing countries to consumer countries typically encompass both legal and illegal activities and transactions;
- Legal trade can have same negative implications as illegal trade;
- Trade interventions at export level only, fail to address real problems down the commodity chain;
- Invigorated domestic law enforcement, which can be motivated by international/consumer country laws and regulations, risks threatening the livelihoods and even security of populations.

The consequences, de Koning said, are that international action against illegal resource trade does not stop at border of producing country but should ideally:

- Involve forest/mining law reform to establish low cost and accessible mechanism to formally recognise rights of local communities and smallholders over resources they already manage;
- Empower local communities and civil society to monitor compliance of forestry/mining laws with support from government authorities, as well as performance of state mining, forestry and law enforcement agencies;
- Establish clear and accessible mechanism to allow people to seek redress for government decisions and actions that may have harmed them;

- Concentrate enforcement efforts on largest violators in the industry, military and government administration, for instance through improving anti-money laundering laws, supporting domestic litigation procedures, and stimulating internal screening processes within government agencies.

Ruben de Koning proceeded by saying that considerable progress has been achieved on the above points in many countries' forestry sectors. For instance about Independent Forest Monitoring in Cameroon and Cambodia; Community forestry all over the world but most successfully in several Latin American countries; and multi-stakeholder forest law enforcement initiatives in Philippines and Costa Rica. Similar progress in artisanal mining sector is scarce, he noted. While millions of lives depend on it, governments fail to develop adequate policies, favouring investment in industrial mining instead, as this brings greater revenue is easier to legalise and control. This is understandable, but industrial development is not feasible in many areas because of negative investment climate. The challenge here is to allow for a smoother transition, with the involvement of artisanal miners, starting by bringing them within the rule of law. We must compare and learn from good and bad practices of management models – whether or not tied to international policy mechanisms – in different sectors, he concluded.



**Satu Hassi**

**Member, Environment, Public Health and Food Safety Committee, European Parliament**

MEP Satu Hassi's presentation focused on EU's action on timber trade, saying that three months ago the EU institutions finally agreed upon the legislation on prohibiting illegally logged timber in the EU.

The EU is aware, but has not discussed the linkages of illegal logging with various types of organised crime, she noted, explaining that instead it has emphasised more on the role of forests for biodiversity and climate protection. To illustrate this, she mentioned that the contribution of deforestation, forest degradation and land-use change to global greenhouse gas emissions is around 20% which is in the same order of magnitude as global transport, she observed.

Forests are very important for biodiversity and the livelihoods of local communities depend on them in various ways. Part of the deforestation is due to legal logging activities, but a significant part of it is due to illegal logging. That is the part that the EU is trying to tackle, she said.

“The EU is aware, but has not discussed the linkages of illegal logging with various types of organised crime”

Satu Hassi, MEP

Recalling the ‘Forest Law Enforcement Governance and Trade’ (FLEGT) regulation, MEP Hassi explained this was how the EU started tackling the problem of illegal trade. The idea was to negotiate bilateral Voluntary Partnership Agreements (VPA) with timber exporting countries and thus try to minimise the share of illegal timber entering the European Union. Unfortunately, a study done by the WWF concluded that in spite of these agreements more than 90% of timber which was logged illegally nevertheless entered the EU market, she observed. An OECD study estimated that, in 2005, 23% of EU’s imports of wood products including paper came from countries with a high risk of illegal logging and WWF estimated that 16 and 19% of wood imports in the European Union in 2006 came from illegal sources, she admitted.

MEP Hassi proceeded by saying that around 5 years ago the EU began to realise that the FLEGT approach was not working very well and that a clear ban was needed on illegally logged timber and timber products. However, this idea was met with dissent because a few thought that it was impossible to have this kind of legislation in the European Union.

Today, we do have this legislation, she continued with satisfaction. The campaigning of environmental NGOs has played a crucial role in this process, she noted, but also the fact that the EU is not the pioneer in this area. The United States was among the first countries to take action in this area by passing the Lacey Act.

Again there are questions about the definition of illegality, she admitted. For the EU legislation, the main criteria is that what is illegal in the source country, including what is considered illegal by international agreements that the source country has ratified, falls under the legislation. The EU also discussed the inclusion of the protection of indigenous communities in the definition of illegality, she said. The protection of indigenous communities is not always clearly defined in all countries. It is not based on written laws, but is

more based on longstanding traditions. However, this inclusion was not made to the final text.

The principle of the law is that timber which is logged illegally in the source country and products from that timber are prohibited in the EU. It aims to discourage operators from trying to trade illegal timber products.

The EU legislation does not mention any criminal sanctions, even in the worst of cases. This is one its drawbacks, she admitted. Nevertheless, MEP Satu Hassi hoped that Member States would decide on criminal sanctions for the worst wrong-doings. Another loophole, she said, is that printed products are not in the scope of the legislation.

What is the EU doing to help capacity building? Questions like these are more in the scope of development cooperation and not in the scope of this legislation, she observed.

MEP Hassi then concluded by saying that she hopes that many actors who operate in the logging business are made aware of the European legislation and thus, gradually, illegal timber stays away from the big European market.



## IV. Analysis - The politics and economics of illegal trade



**Alain Déléroz**  
Vice-President Europe,  
International Crisis Group

Moving on to the second part of the discussions, Alain Déléroz spoke about the politics and economics of illegal trade in minerals in Eastern DRC and the responses that have been tested so far to put an end to this business.

### A destructive business for people and state

He began by saying that the Democratic Republic of the Congo is one of the most mineral-rich countries in the world. Unlike its direct neighbours in the East (Burundi, Uganda and Rwanda), Eastern Congo is characterised by a huge (minimum: 200 000 workers: International Alert report 2009, *Etude sur le rôle de l'exploitation des ressources naturelles dans l'alimentation et la perpétuation des crises dans l'Est de la RDC*), militarised (by armed groups and the Congolese army) and informal mining sector. This situation has created a vicious circle between illegal trade and widespread violence (2004-2010), he continued. Today, even if the war is over, low level conflict lingers on in Eastern Congo, and its consequences resonate strongly in the mining sectors. The economy in that part of the DRC functions along the lines of a war-type economy where the business interests of high ranking officers, the drive for mines by rebel groups and the collaboration between businessmen, politicians and officers remain extremely strong, he noted. The result is wide spread use of violence to resolve business disputes.

Déléroz proceeded by saying that a confluence of negative indicators suggests that further trouble could be on the horizon. Despite the lucrative

business, the miners themselves live in a state of abject poverty and are paid only US \$1-3 per day. Given the absence/ineffectiveness of state authority and law enforcement, mining becomes a risky business - not only the risks of mine-collapse, but also the violent nature involved in "doing business", he noted. Bad governance exacerbates the situation, he remarked, as high profit margins of illegal trade forge corruption in local government and administration creating a flourishing parallel economy that is much more profitable than the formal one, concluding that this trade has turned into a direct obstacle to state-building. And green issues are at stake, he continued. Given the absence of regulation, informal mining takes place in the national parks (Virunga and Kahuzi Biega); water pollution and destruction of the tropical forest continue unabated posing serious concern for longer term environmental damage.

### Responses to this situation

Alain Déléroz then listed some of the main responses that have been set up by Congolese authorities and the international community to curb illegal trade of natural resources in Eastern DRC:

#### 1) Militarising the trade (Congolese approach):

President Kabila announced in September a ban on mining exploitation in South and North Kivu and Maniema. The intention is that this temporary suspension will be followed by military operations in order to control some mining sites. Despite apparent good intentions, the militarisation of the mining areas cannot be considered as real progress: replacement of armed groups by corrupt officers in the mining areas can certainly not be regarded as progress in good governance. In 2009, the Congolese prime minister himself asked for the demilitarisation of the mining sites and nothing happened, Déléroz remarked.

#### 2) Policing the traders (UN approach):

Instead of boycotting the minerals from the DRC, the speaker explained that this approach tries to impose smart sanctions against the traders involved in this illegal business through visa bans and assets freezing mainly against traders who are on the list made by the UN panel of experts on illegal trade of minerals in Eastern DRC. But low level of implementation of the sanctions by the neighbouring and Asian

trading countries (Dubai, Far East) seriously weakens this approach, he noted.

3) Formalising the trade (pro-development and pro-business approach):

Two important international projects work along this line in Eastern DRC, he continued:

- the UN « centres de négoce » in the Kivus;
- the certification schemes by the International Tin Research Institute (ITRI) and the Federal Bureau of Geo-Sciences and Natural Resources of the Federal Republic of Germany (BGR)

The UN project tends towards improving the administrative controls on the mining sites of the exports. It has just entered its implementation phase. The German certification scheme tries to harmonise the customs system in the Great Lakes region and thus helps reduce incentives for contraband. International Conference for the Great Lakes region is in charge of this, he explained.

The UN Security Council has also recommended that extracting companies exert due diligence by checking their supply chain to make sure they don't buy from traders linked to armed groups. The OECD is working on due diligence guidelines for the industry, too.

However, Délétroz insisted, all these approaches depend on the good will of the industry and the governments in the region. And most of the present actors in the extraction business have very few incentives to abide by these rules, he noted.

4) Banning conflict minerals (US approach)

On 21 July 2010, US President Obama signed into law the conflict mineral legislation. Section 1502 of Chapter XV (Miscellaneous Provisions) of the Dodd-Frank Wall Street Reform and Consumer Protection Act requires:

- Annual disclosure of whether conflict minerals, including coltan, cassiterite, wolfram, and gold did originate in the DRC or adjoining countries within 270 days;
- A description of measures taken to exercise due diligence on the source and chain of custody of conflict minerals; of the products manufactured or contracted to be manufactured that are not conflict-free; and the facilities used to process the conflict minerals, the country of origin of the minerals, and the efforts to determine the mine of origin, in case the conflict

minerals did originate from the DRC or adjoining countries.

- The production of a map of mineral-rich zones, trade routes, and areas under the control of armed groups in the DRC and adjoining countries within 180 days and to be updated every 180 days. These maps will be based on information from the UN Group of Experts, the Congolese government, the governments of adjoining countries and other UN member states, as well as local and international non-governmental organisations, he continued.

The speaker remarked that the US law makes due diligence mandatory and can be considered big progress even if, at this stage, it is still unclear what would effectively happen to companies that do not comply with these requirements. USAID is also working on a Strategic Action Plan on Conflict Minerals in Eastern Congo.

**Conflict minerals, an issue of global ethics for Europe**

Moving on to Europe's role, Alain Délétroz insisted on the necessity to adopt its own legislation and better coordinate with international institutions to efficiently respond to this challenge.

Mineral trade is a highly politicised industry in today's globalised economy, he remarked. In order to avoid extractive industries contributing to conflicts it is absolutely vital to promote transparent governance of the minerals trade. This will require a strong international coordination between states in order to make due diligence compulsory, and between states and the industry, in order to set up efficient certification schemes. Europe should quickly follow the American move and make due diligence compulsory in the EU, he continued. In the region, it is essential that international agreements on certification are signed by all countries involved in the industry. In order to make real progress all donors agencies have to coordinate their efforts. Today the EU, the USA, the World Bank are very active in the DRC in the mining reform sector. They all meet the same difficulties with the Congolese administration and should coordinate their response, he noted.

Alain Délétroz concluded by saying that conflict minerals trade is a rent-seeking business that is benefiting many stake-holders in the region: from armed groups, local and international businessmen to the governments of the Great Lakes region. The

high rents garnered from this illicit business provide a strong incentive for the actors involved to tolerate such practices and even encourage them. This comes with a significant cost to the local population, and at the expense of stability and good governance. The trade must now be reined in, monitored and put under a political reality check to ensure that peace in the Congo will come for all and continue, he insisted.



**Richard Saunders**  
Associate Professor,  
Department of Political  
Science, York University

Richard Saunders chose to take the audience into Zimbabwe's conflict diamonds. He began by saying that in 2006 major new alluvial diamond deposits became known in Marange District in eastern Zimbabwe. The discovery coincided with a dramatic and worsening economic and political crisis for interests associated with the governing ZANU-PF party of President Robert Mugabe, he noted. By 2007 a new case of African "blood diamonds" had emerged, in which Zimbabwe's State security forces secretly managed the extraction and criminal smuggling of rough diamonds, while violently and irregularly displacing local communities, legal title holders and informal miners, he continued. Soon, informal and illegal mining was first incorporated under the supervision of security interests, and then institutionalised and "legalised" through the irregular licensing of commercial entities with ruling party and security links, he continued. Throughout this period of intensive activity in Marange's diamond fields, the Zimbabwe government, the Kimberley Process Certification Scheme (KP), civil society and other stakeholders have struggled to bring greater accountability and transparency to Marange's production, and to illuminate and address the record of human rights abuses, criminality and mismanagement. Four years after the diamond rush began, Marange diamonds remain a key issue of concern within the KP and continue to fuel debate over what constitutes "conflict diamonds", he noted.

Saunders proceeded to say that in important ways, Zimbabwe represents the modern face of conflict diamonds, and illustrates the new kinds of challenges posed to the elimination of rights abuses, violence and criminality associated with the illegal trade. Within KP and in mainstream policy perspectives more widely, "conflict diamonds" are defined as illegally traded diamonds whose proceeds contribute to fuelling organised, weaponised or militarised political conflict. This understanding of "conflict" is one rooted in the experience of the 1990s in Angola, Sierra Leone, Liberia and the Congo, among other places ravaged by militarised conflict, he noted.

But in the 2000s, he argued, the political and military context of illegal alluvial production has shifted in most – if not all – of Africa's 15 alluvial diamond producing countries. Production is now generally under the domination of political and economic elites who sit in or alongside government, not against it. In places like Zimbabwe, the illegal diamond trade has integrally involved national security forces with direct links to governing political interests. So while militarised conflict fuelled by diamonds may be less prevalent, contestation about access

"In important ways, Zimbabwe represents the modern face of conflict diamonds"

Richard Saunders

to and control over resources has persisted through political-cum-business and criminal trading networks, located within and parallel to the state.

Increasingly, conflict-linked violence and rights abuses have been focused on artisanal producers and their communities, and in places like Zimbabwe it has mostly been state security forces – not political dissidents – who are responsible for it. We are seeing the consolidation of parallel illegal trading networks inside state-led political economies, he continued, even in countries that were previously less afflicted by these ills. By these means the illegal trade has emerged as a critical contributor in the criminalisation of sections of the state. This situation has wide-ranging implications for the generation of new dynamics of violence driven by economic and political contestation, and for undermining the reconstruction and development capacities of the public sector. While diamond-fuelled conflict may be less clearly linked to weaponised political violence than in the 1990s, it

stands the risk of becoming more entrenched, enduring and destructive of long term development and political stability, he noted.

Richard Saunders then focused the rest of his presentation on some of the critical implications of the new context of conflict diamonds as illustrated by Zimbabwe's Marange production, and similar cases. First, he explained that there is a need to reframe the criteria defining conflict diamonds, and assess and address the central weaknesses of the KP on this issue. Second, the issue of "legality" -particularly the paths taken in attaining "legality"-requires attention. Finally, the matter of the "development impact" and sustainability, especially of small scale and artisanal miners and their communities, needs to be addressed more systematically and substantively.

### **Reframing "Conflict Diamonds"**

There is a pressing need to rethink the criteria defining "conflict diamonds" with a view to more effectively tackling the reality of diamond-generated conflicts of today – not of the 1990s, Saunders said.

Zimbabwe is an example of "conflict diamonds" which have involved not militarised political conflicts, but cyclical state-led and criminal violence against artisanal miners, local communities and traders that has had deeply corrosive impacts on national political reconciliation and development efforts. Naming and framing the problem as one involving "conflict" diamonds has been a challenge for human rights and other civil society groups, and moves to revise the operational definition "conflict diamonds" in this direction has been resisted by many KP member governments, and not only with regard to Zimbabwe, which is but the latest example.

Saunders proceeded by saying that leading civil society observers at the KP have pressed for the inclusion of human rights and community sustainability in the KP's criteria for legitimate diamond production, but without much success. Delegations of member governments have been sharply divided, as has industry. Rather than moving forward on the issue there has seemingly been growing conflict within the KP.

There is a real need now to re-calibrate our understanding of conflict diamonds, he argued. We need to look beyond the 1990s-stereotype of "blood diamonds", which the KP was largely

formed to address and over which it enjoyed some success, and to deal head-on with the new forms of rights abuses and criminal and irregular production that are pervasive. In the 2000s, "post-war" situations in many alluvial diamond countries, for example Angola, Sierra Leone and the Congo, have led to a dangerous dual context of a weakened government sector along with economic fragility and limited opportunities for sustained commercial accumulation. This context has been key in both enabling unregulated and illegal production, and in its consolidation among poor communities and elite interests alike, he noted.

Today, the terminology of "conflict diamonds" makes sense only if it acknowledges the reality of human rights abuses; of closely related social and economic participation by local communities, and especially artisanal mining communities; and of transparency in the management of production by government and business, Saunders said. In many countries, these are now the primary points of sustained conflict generation around diamonds. Unless they are addressed the threat of extended conflict, and new destabilising nodes of economic and social desperation, will remain.

### **The challenge of "Legality"**

While legal certification remains the KP's critical point of leverage in regulating the trade in rough diamonds, recent cases suggest that the "return to legality" within the KP context can be fraught with weaknesses that may undermine the KP's broader effectiveness in pursuing stable, transparent diamond production, he said.

In Zimbabwe, he continued, there is growing awareness by civil society and local communities that the recent turn towards "legality" in the production under government supervision has left unchallenged some of those interests who supervised and benefited from the illegal trade since 2006. A return to legality has not meant transparency, or the addressing of rights abuses of the past; it has led to the effective privatisation of access to and benefits from the Marange diamond fields; and it has failed to provide substantial benefits to either local communities or the state treasury.

As the Zimbabwe case demonstrates, "legality" has a very fluid status, and can be heavily politicised and influenced by interests which have a direct stake in the continuation of resource extraction

that are irregular in origins and which are politically and economically corrosive of stability, transparency and more widely, development. A formal return to “legality” through the implementation of minimum standards without transparent or effective independent or third party oversight (for example, the licensing of miners through untransparent and irregular means), can serve as a strategic intervention to sustain and consolidate existing domination of illegally-traded resources, Saunders warned. In this regard, the KP’s weakly defined regulations can be tactically used to subvert greater transparency, accountability and sustainability of production as it transits into the realm of legality.

Unless the modalities of the return to legal trading is highly supervised, monitored, held accountable, and rendered transparent, the legal status of diamonds in producing countries stand the risk of being regularised while leaving in place patterns of rights abuses, criminality and their anti-development effects. Here, the weaknesses of the KP as a monitoring and regulatory mechanism, which are now increasingly acknowledged, have undermined the KP’s effectiveness in promoting a stronger legal framework for regulation. Some of the KP’s success stories in dealing with large diamond-fuelled conflicts of the 1990s, such as Angola and Sierra Leone, stand as examples. In these countries, the internal controls needed to prevent illegal mining and exports, deepening criminalisation and violence, remain weak. Non-compliance with KP standards has been frequently documented, but often not forcefully or dealt with quickly enough. This has also been the case more recently, and publicly in Venezuela, where 100% of production is irregular and has been cleared for export; and Zimbabwe, where 3 million carats of contested ownership were approved for export in 2010 by the KP, he said.

The KP’s role in defining legality and the modalities of transition to legality remains critical. On these questions the KP must be strengthened from within by members, and particularly by member governments, who at times have mounted challenges to the strengthening of such legal criteria (for example, in opposing the inclusion of human rights criteria in defining illegal diamond production). At the same time, Saunders observed, other avenues for supportive and complementary definition and enforcement of illegal production and trade need to be considered; in this context, recent US measures concerning the Eastern Congo

might represent a way forward.

In sum, the return to “legality” is only the starting point of policy discussions concerning the stable and sustainable management of the alluvial diamond trade. It is equally important to acknowledge the limits of what “legality” entails in source countries, and specifically, the current limits of the KP in setting the criteria of acceptable production of rough diamonds and supervising their implementation, Saunders noted.

### **Incorporating the “Development Impact”**

In Africa, civil society is leading calls for national debate on the wider questions of “transparency” in the state management of national resources; social participation in the management of and benefits from resources; the recognition and codification of the rights of communities which are directly affected by the exploitation of resources; and the rights and regulation of small-scale or artisanal mining in particular. Taken together, these issues are at the centre of debates around the failed “development impact” of resources, and what to do about it, he remarked. Critically, such debates have not been at the heart of the KP’s work, and instead have been mostly a sidebar to it.

In the context of today’s conflict diamonds, in which those who are most dislocated, exploited and at risk of violence –artisanal miners and their communities– have seen some of the lowest rates of social benefit and social participation, it is essential to strengthen the focus of the KP, of national governments and the industry on the artisanal sector, and its contribution to economic production, national development and political stability, Saunders warned. At the same time, and as part of this process, it is crucial to deepen the capacity of civil society in support of artisanal production and social participation more broadly. While national legal frameworks have provided a slippery grip for enforcing responsible mining from the outside, the strengthening of monitoring and documentation capacities (for example) by civil society provides important points of intervention for improving the standards, regulations and development outputs of artisanal production from the inside.

Initiatives are underway within and outside the KP to develop and promote standards for artisanal diamond production, and other participants in this meeting are better placed to discuss those specific

and important developments. More broadly, Richard Saunders underlined civil society's role in building more transparent, pro-development and sustainable forms of alluvial diamond mining, and the importance of including development and sustainability criteria in future diamond regulation efforts.

From the ground level, and here again Zimbabwe is illustrative, it seems increasingly clear that initiatives focused on strengthening regulation and monitoring at the point of production, and particularly in those most vulnerable communities of artisanal producers, has to meaningfully include recognition and strengthening of civil society stakeholders, he noted. There is pressing need to provide targeted support to communities and civil society players, aimed at strengthening their capacity to develop and implement more sustainable approaches. Here, the opportunities for sharing and exchange around best practices represents one component of a way forward; support enabling civil society and community linkages among different alluvial producing areas plagued by similar problems of weak state regulation, weaponised violence, criminality and desperate poverty, can help to apply lessons learned in one country in solving problems in another. In this regard, some now look to Ghana's small scale sector as a model from which to learn.

Finally, the need for inclusion of sustainability and development criteria as part of a rethinking of criteria for diamond production seems increasingly inevitable. But how to frame and locate such criteria – within the KP, or more broadly outside it – is another matter, and the dragging of debates within KP around human rights and transparency suggest that the KP is unlikely to take the lead on this issue, at least in the short term. To some extent this helps root the issue firmly at the level of national policy debates, and here again the central role of civil society and capacity-building in support of its efforts – particularly in the context of the weakened, compromised post-conflict state sectors that we now see in many of Africa's alluvial diamond mining countries, Saunders concluded.



**Michel Gary**  
**Programme Coordinator, Asia Pacific Department,**  
**Transparency International**

Michel Gary's presentation focused on Transparency International's (TI) work in the area of timber trade in the Asia-Pacific. Corruption is an issue for other natural resources as well, but at present TI is focusing only on timber issues, he said.

Looking at TI's involvement in the forest sector and timber trade, Gary said this issue was being put forward by the National Chapters in the region. National Chapters are independent organisations, NGOs working in the region which are part of the TI movement. They have noted that:

Forests and forestry are very important to the region both economically and socially, especially for local communities;

Illegal logging robs countries of vital natural, financial, social resources that could go a long way in meeting the Millennium Development Goals (MDGs);

Corruption drives illegal logging and illegal timber trade.

The aim of this programme, he continued, is to contribute to curb corruption and strengthen forest protection systems in Asia-Pacific through improved transparency and accountability.

Gary proceeded by saying that the main activities undertaken by TI are research and advocacy. TI is developing risk maps to observe where corruption may happen in a given country and monitoring systems to see where civil society, private businesses and governments can impact these risks. Working with stakeholders is also an important issue, he said. TI is making use of its convening power that is, trying to put everyone around the same table – the private sector, governments and civil society. The idea is also to bring in the anti-corruption perspective, because you may have good environmental laws, but you may have the problem of corruption that may enable circumventing the laws, he explained.

Chatham House reports have shown the relation between corruption and illegal timber trade; in Malaysia, Ghana, Brazil and Indonesia when the corruption is high, the illegal trade is also very high.

Illegal timber trade in the Asia-Pacific is a regional problem which requires a regional approach and not just national laws to deal with the problem, Gary noted. For instance, timber coming from Indonesia may not go into the EU directly since there is a demand for timber in the Asia-Pacific itself. Also, Asian countries act as a point of transit before the timber moves to the EU and the US.

Another element is that even if a Voluntary Partnership Agreement (VPA) was to be signed between Indonesia and the EU, illegal Indonesian timber may circumvent the VPA by transiting first through another Asian country such as China. Even though the VPA is a good tool it needs to tackle this risk, Gary said.

The challenge is in big part due to the complexity of the regional timber trade flows. There is a lack of international agreements on timber trade, except for the few endangered species covered by the CITES Convention. This means that there is often no legal basis to seize shipments of stolen wood at the point of import, he said. Moreover, corruption is not addressed as a driver of illegal trade. There is a component on transparency in the VPAs that the EU has developed. However, there is just a specific aspect and it needs to be addressed at a broader level.

Gary then proceeded to highlight the corruption risks associated with timber trade, saying that there are several ways of laundering timber, even before it is exported. For instance, in Papua, large payments were made by companies to facilitate the approval of their annual logging plans without controlling the fee payment or the permitted amount to harvest timber. Bribing of officials at the export point is similarly possible, he continued. Documents can be falsified as well by misrepresenting quantities and species. Finally, timber from illegal permits processed by a legitimate company and then exported may come back in the legal trade.

Moving on to the role of the EU, Gary suggested areas that should be explored to successfully address illegal timber trade:

The EU can lead the way to increased cooperation to address the regional/international dimension of timber trade governance;

“There is often no legal basis to seize shipments of stolen wood at the point of import”

Michel Gary

The EU can include anti-corruption as a major component of its forest governance strategy (FLEGT, VPAs,...). This can be done not only by the EU but also by supporting organisations;

The EU can support stake-holders to develop or improve anti-corruption tools.

In concluding, Gary gave an example of TI’s tools that can be used to identify corruption risks, saying that both EU and local stake-holders can use this research for further action. The methodology includes a risk assessment, the monitoring of existing anti-corruption instruments and advocacy efforts, he continued.

The EU can use these tools to identify the risks and solutions and to also study what reforms or capacity building are needed in these countries to address illegal timber trade.

## V. Solutions and Gaps - International legal and voluntary initiatives

### A. Governmental and Legislative Action



**Stéphane Chardon**  
EU Representative at the  
Kimberley Process, DG RELEX,  
European Commission

Stéphane Chardon presented a rather positive perspective of the Kimberly Process Certification Scheme (KPCS), arguing that in spite of its many imperfections the Kimberley Process is the only working mechanism in the area of conflict resources.”

He began by explaining the main features of the KPCS, an instrument which from the very beginning has been innovative and complex in the sense that its objectives are political, but its functioning is essentially trade-related. It counts 75 member countries which include virtually all diamond manufacturing, trading countries, and the European Union as a single member. It works as a closed club, meaning that those not part to the KP cannot legally deal in diamonds, he remarked. Therefore, members commit that they trade only with one and another, excluding rough diamonds from non-members. Another aspect of the political dimension is that the KP has been endorsed and there is a renewal of endorsement by the UN. Finally, with respect to trade, every five years there is a renewal of a waiver in the context of the WTO.

The Kimberley Process originates from real-life dramatic situations of conflict where diamonds were probably the most important source of financing for rebels, he continued. Sanctions were imposed in Angola, DRC, Sierra Leone, Liberia against the trade in diamonds, but there was a realisation that these sanctions faced limitations because there was no way in which neighbouring

countries could be sure that diamonds that were legally exported were actually produced inside their territory. Recognising the need for a global approach in a global economy, the Kimberley Process was set up with a view to control all diamonds and not just one aspect about diamonds, Chardon explained.

The basic idea was to separate the good diamonds from the bad diamonds. This entailed questions of legality, but also of ethics. However, the KP was originally not created to explicitly and formally address human rights concerns or child labour, even less environmental concerns, he continued. That is the point which is under scrutiny. One of the major issues under consideration is the situation in the mining area of Marange which has become a major diamond-producing area and where there were numerous reports of finance by the Zimbabwean army to try to gain control over that area. According to the UN and many members of the KP there is no conflict in Zimbabwe, but there was some violence and internal conflict and the question arises as to whether the KP should stand still or whether it should intervene.

“The KP was originally not created to explicitly and formally address human rights concerns or child labour, even less environmental concerns”

Stéphane Chardon

Chardon noted that the mandate issue is one of the main concerns and it is important for other areas of natural resources to clearly define what they are targeting. This will determine the instrument used to crack the particular problem.

He then described the composition of the Kimberley Process, highlighting the tripartite structure composed of NGOs, the industry and Governments.

#### Specificity of the diamond industry

They are not necessarily similar to other natural resources. You have an industry which is extremely receptive to considerations. The intrinsic value of diamonds is nil. If the reputation of diamonds is destroyed that becomes a serious concern for the diamond industry. That explains why it has been very receptive in addressing the problem rather than just ignoring it.

Other aspects have also to be taken into account. In the 90s there was a certain structure of the industry and it was relatively easy to gain a



satisfactory and sufficient representation, he continued.

The industry is characterised by millions of diggers all over Africa and also to some extent South America. The structure of the diamond industry has a certain degree of concentration which helped the creation of the KP at the beginning of the century.

It is important in terms of legitimacy and commitment of members and also in terms of effectiveness of the KP. It also means we have access to all kinds of expertise, Chardon observed.

### **The structure of the KP**

- The KP has no treaty;
- There is no international organisation;
- It has a rotating Chair / Secretariat;
- It is composed of 'Virtual' working groups;
- It has Inter-sessional/Plenary meetings;
- There is strong stake-holder commitment

The basic pillars are transparency in an area which before the KP in some countries was subject to state secret like in Russia. There is a high level of transparency about the production and trade of diamonds.

It focuses on trade controls, certification and most importantly international controls from mines to export.

There is administrative cooperation, that is, people tend to know one another and they exchange information amongst one and another. There is a monitoring system which ensures that there is a certain level of verification of rules, Chardon concluded.



**Laura Rio**  
**Senior Programme Manager,**  
**Environment and Security**  
**Initiative (ENVSEC)**

Laura Rio briefed the audience about the Environment and Security Initiative (ENVSEC).

ENVSEC is a partnership of six organisations -UNEP, UNDP, UNECE, REC, OSCE and NATO as an associate partner- that contributes to the reduction of inter-linked environment and security risks by bringing together the best expertise available in the UN and international organisations:

- In OSCE ENVSEC partners appreciate the foreign policy and security perspective and contribution to bring environmental concerns to the political agenda;
- UNEP brings capacities and experience in environmental assessment and technical expertise;
- UNDP links ENVSEC to pro-poor human development policies, good governance and human rights;
- UNECE brings expertise on social and economic mechanisms for multilateral environmental conventions on Air, Water, Industrial Accidents and Environmental Impact Assessment;
- REC NGO has a strong experience in confidence-building, cross-border initiatives, and support to civil society;
- NATO brings to the partnership its specific expertise in security and military issues.

A key element of ENVSEC is its regional approach reflecting the transboundary nature of the environmental challenges it aims to tackle, she noted. To do so, it co-operates with governments, national experts, civil society and research institutes to restore the broken link between environment and security for the benefit of people on the ground.

Environmental degradation can fuel conflicts and competition over declining natural resources such as forests, fresh water, fisheries and fertile soils. Natural resources such as oil, gold and timber may play a key role in triggering, prolonging, and financing violent conflicts. But Ms Rio emphasised that environmental cooperation can act as a bridge for improved mutual understanding, build foundations for agreements on transboundary environmental management, and lead to solutions.

### **How does ENVSEC operate?**

Since 2003, the ENVSEC Initiative has been helping governments assess and address environmental and security risks by identifying environment and security hotspots, and confronting challenges

through international dialogue and regional cooperation, she continued. Illegal logging, for instance, is a key challenge to the sustainability of the 'Carpathian Convention' and the management of the

“Environmental cooperation can act as a bridge for improved mutual understanding, build foundations for agreements on transboundary environmental management, and lead to solutions”

European initiative. The activities focus on Forest Law Enforcement and Trade Action Plan which include capacity building and setting up of a network on illegal logging and environmental crimes.

Ms Rio pointed out that illegal logging has many consequences on the region including on the environment (loss of biodiversity, deforestation, desertification), on society and the economy (revenue loss, corruption, crime, weakening of society fabric) and cross border (tensions hindering sustainable development). Several drivers are identified, such as poverty, commercial exploitation, failures of governments and corruption, unclear controversial policies and legislation, weak institutional structures, inability to monitor, interest groups, power structure, etc.

Among the possible solutions, she concluded, ENVSEC has produced a South-Eastern Europe Regional Action Plan that focuses on cross-border aspects of illegal logging. It suggests the establishment of an informal network on illegal logging and environmental crimes aimed for better regional cooperation/coordination and the promotion of capacity building (training and information exchange on environmental crime).

Danube water resources. Furthermore, illegal logging can contribute to instability by providing sources of illegal financing to the black economy. ENVSEC objectives and activities stem from the outcomes of the regional assessments (CA in 2002, SEE in 2003, South Caucasus in 2004, Eastern Europe in 2005 and more specific assessments in certain regions). These assessments and the reports are shared with and endorsed by national and regional stake-holders to get political support on the identified priorities and hotspots. Once the priority areas are defined, regional work programmes and project portfolios are developed.

Laura Rio proceeded by saying that the challenges faced are numerous and complex. To address them, ENVSEC focuses on four priorities which are revisited and tailored to the reality on the ground:

- Management of shared natural resources;
- Identification and reduction of transboundary risks from pollution and waste;
- Awareness-raising and strengthening capacities and participatory mechanisms on environment and security issues;
- Mainstreaming environmental considerations in security policies and promoting environmental cooperation in conflict areas.

#### Project quick facts

Ms Rio then drew the audience's attention to a project in South-Eastern Europe that is supported by the Governments of Belgium, Canada and recently the Finnish government under the wider



**Amélie Taoufiq-Cailliau**  
Legal Officer, Secretariat of  
the Basel Convention

Amélie Taoufiq spoke about the Basel Convention (BC) for the Control of Transboundary Movements of Hazardous Wastes and their Disposal.

She started by explaining the main goal of the Convention which is “to protect, by strict control, human health and the environment against the adverse effects resulting from the generation and management of hazardous wastes and other wastes”. It was created to respond to increased public concern following the misadventures of “toxic ships” such as the Katrin B and the Pelicano, sailing from port to port trying to offload their

poisonous cargoes. These tragic incidents were motivated in good part by tighter environmental regulation in industrialised countries. As the cost of waste disposal skyrocketed, “toxic traders” searching for cheaper solutions started shipping hazardous wastes to Africa, Eastern Europe and other regions, she noted. To combat these practices, the Basel Convention was negotiated under the auspices of the United Nations Environment Programme (UNEP) in the late 1980s and entered into force in 1992.

The Basel Convention relies on an interaction between the national, regional and international levels. The Convention is governed by the Conference of the Parties but also has three subsidiary bodies (Open-ended Working Group, Expanded Bureau and Implementation and Compliance Committee) and a Secretariat that communicates directly with national focal points liaising with the competent authorities in the Member States. Custom services are literally at the front-line to ensure implementation of the Convention, explained Taoufiq.

The Basel Convention controls different types of wastes, which are linked directly and indirectly with natural resources:

- “Hazardous wastes” listed in Annex I and exhibiting Annex III characteristics, such as explosive, flammable, oxidising, poisonous or corrosive. Annexes VIII and IX further clarify what is - and what is not - understood by “hazardous wastes”;
- “Other wastes” are wastes listed in Annex II: wastes collected from households and residues arising from the incineration of household wastes;
- Wastes considered hazardous under the national legislation of a Party, as notified to the Secretariat under Article 3.

Illegal traffic refers to any transboundary movement of Basel Convention wastes (Art. 9):

- Without notification to all States concerned;
- Without the consent of a State concerned;
- With consent obtained from States concerned through falsification, misrepresentation, or fraud;
- That does not conform in a material way with the documents;

- That results in deliberate disposal (e.g. dumping) of Basel Convention wastes in contravention of the Convention and of general principles of law.

Parties are required to consider illegal traffic as a crime and are required to take appropriate legal, administrative and other measures to implement and enforce the Convention, including measures to prevent and punish conduct in contravention of the Convention, Taoufiq continued. This is a strong point of the Basel Convention. In cases of illegal traffic which is due to conduct of the exporter or generator, the State of export shall ensure within a set time that the wastes in question are:

- Taken back by the exporter or the generator or the State of export; or
- Are otherwise disposed of in accordance with the provisions of the Convention

The Convention also establishes procedures for management of wastes where the illegal traffic is due to the conduct of the importer or disposer.

“The mechanisms which work well will result in many possible ways of stopping illegal trafficking”

Amélie Taoufiq-Cailliau

The procedures form the heart of the Basel Convention control system and are based on three key elements (notification, consent, environmentally sound management). The mechanisms which work well will result in many possible ways of stopping illegal trafficking, continued Taoufiq. To this end, there is a need for cooperation at the national level (Customs Officers and Enforcement Agents; Port Authorities; Focal Points; Competent Authorities; Ministries of Justice; and Prosecution services), the regional level (Inter-regional cooperation and exchange of information) and the international level (Basel Convention, World Customs Organization, Interpol, UNEP, Green Customs Initiative).

Amélie Taoufiq then gave a brief explanation on CITES - Convention on International Trade in Endangered Species. She did this on a request from Marceil Yeater of CITES who was initially scheduled to speak at the conference.

To conclude she focused on what she felt were the main challenges and issues to be addressed to improve the efficiency of the Basel Convention:

- Some major exporting countries are developing countries with insufficient coordination mechanism and capacity for the control of export;
- Re-exportation and long trade chain create bigger difficulties in monitoring, reporting and recording;
- Enforcement capacities are insufficient;
- Challenges in control of border trade:
- Differing obligations arising from different legal systems (e.g. EU).

The need to strengthen:

- National capacity and coordination for the control of international trade;
- Implementation and compliance mechanisms;
- Enforcement capacities/authorities – crucial role of customs, of the judiciary (courts, judges);
- Importance of technical assistance and capacity - science, compliance and enforcement – building.

Brussels' role in this regard could contribute to rendering North-South cooperation more coherent.

## B. Corporate and Civil Society Action



**Ian Smillie**  
Chairman, Diamond  
Development Initiative

Ian Smillie began by explaining the circumstances in which the Kimberley Process Certification Scheme (KPCS) came on stream in January 2003, after several years of NGO campaigning and media attention to wars fuelled by diamonds. It covered most of the world's rough diamonds and had several unique and compelling features:

- Countries that did not join could not trade with members, hence there was a strong, WTO-endorsed motivation to join;
- Each member country had to enact KPCS-compliant legislation, so it had the force of law in 75 national jurisdictions;
- Tripartite participation -- active, formal engagement of industry and civil society.

The KPCS had several early successes, Smillie continued, not least a reduction in smuggling and enhanced tax revenue for African producer countries. Diamond wars had largely ended before the KPCS began, but the international attention created by KPCS negotiations helped starve rebel armies and contributed to their collapse.

“The international attention created by the Kimberley Process (...) negotiations helped starve rebel armies and contributed to their collapse”

Ian Smillie

In recent years, however, there have been notable failures:

- An unwillingness to address huge production and trading anomalies (Lebanon, Guinea);
- Clear evidence that some countries, notably those most affected by diamond-fuelled wars (Angola, DRC), cannot track the origin of many of

the diamonds they certify. This is the primary purpose of the KPCS;

- 100% of Venezuela's diamonds have been smuggled for over four years; the KP has been unable/unwilling to confront Venezuela, turning a blind eye to the phenomenon it was designed to halt: diamond smuggling;
- Massive smuggling and human rights abuse in Zimbabwe's diamond industry have been met with two years of KP dithering and few positive results.

Ian Smillie warned that the KPCS had several in-built weaknesses that should be studied by others looking to emulate the KPCS or to create similar regulatory systems:

- A 'consensus' decision-making process which requires unanimity on all decisions. This has hamstrung all manner of forward movement;
- A rotating chair and no permanent secretariat means that many important tasks are left undone;
- No independent means of research, study or trouble-shooting;
- A 'peer review' mechanism that is in most cases far from adequate;
- Inaction on obvious cases of non-compliance and an absence of sanctions.

In the end, civil society remains the only serious watchdog, Smillie noted. Although the industry is creating its own system of standards with third party verification, this has limitations.

In concluding, Ian Smillie observed that, oddly, industry and civil society – once antagonists – now frequently agree on major points of contention where the KPCS is concerned: human rights, independent research and monitoring, swift action to enforce compliance. In today's KPCS, national and regional political agendas have been allowed to trump the conflict prevention purpose of the Kimberley Process. The European Union, once a leader, is now frequently part of the problem. If this continues, the KP will become little more than a talk-shop and the criminality and violence that infested the diamond industry in the 1990s will return.



**Pekka Isosomppi**  
 Director, Social Regulation,  
 Nokia

Pekka Isosomppi’s intervention highlighted Nokia’s interest for a cleaner trade in commodities.

He noted that illegal trade in natural resources is a huge topic deeply rooted in the international system, and as such it calls for a broad action between governments and the users of these materials. However, the electronics industry has in recent years been exposed to this via the so-called conflict minerals originating from the Democratic Republic of Congo (DRC).

There are plenty of sources for these minerals from around the world, but because conflict minerals “contaminate” the material flows just like a drop of dirty water contaminates the whole water tank, no

“ Conflict minerals contaminate the material flows just like a drop of dirty water contaminates the whole water tank”

Pekka Isosomppi

company today can claim full certainty about the “purity” of their supply chain, Isosomppi observed. Hence the issue is very relevant for companies that have high brand recognition, such as Nokia. However, in order to reach any kind of solution to tackle illegal trade and its consequences, all industries using these materials and all governments with a stake and possibility to influence should get involved.

In concluding, Mr Isosomppi argued that Nokia does not need the conflict minerals from the DRC. The solution to the issue is not to fence off Eastern DRC, but to seek an ultimate resolution to the conflict and better livelihoods for people. Simply cutting the last lifeline by banning the exports of minerals will do no good for the suffering people. Furthermore, a peaceful and prosperous DRC

would be very good for Nokia’s business perspectives with literally tens of millions of new potential customers.



**Mark van Dorp**  
 International Fund for Animal  
 Welfare (IFAW)

Mark van Dorp’s presentation focused on civil society’s attempts to raise the issue of the bushmeat crisis higher up on the political agenda, arguing this is one of the greatest threats to wild- and human life in many parts of the world.

The problem, he said, is the unsustainable hunting and trading of wild animals for consumptive use. This affects mainly regions in West Africa and Central Africa, but it also takes place in other parts of Africa, Asia and Latin America.

The main consequences are that the local people are deprived of their main source of protein, threatened species are on the path to extinction and imports into EU pose huge health risks such as Ebola and HIV.

Various civil society organisations have been working to stop the illegal bushmeat trade van Dorp continued. In this presentation, the focus is on the main actions undertaken by EAZA (European Association of Zoos and Aquaria) and IFAW (International Fund for Animal Welfare):

- In 2000, EAZA, together with IFAW, undertook a public campaign in the zoos of Europe to highlight the bushmeat problem;
- In 2001, a 1.9 million signature petition was presented to the European Parliament and the Council of Development Ministers;
- In 2003 a key field study was done by IFAW in Central Africa resulting in the publication, “Monkey Business in Gabon”;
- In 2004, a review of the European Commission’s policies and practices on wildlife conservation was done by IFAW;
- IFAW and other organisations have lobbied EU institutions to come up with improved policies on the tackling of illegal trade of bushmeat.

Mark van Dorp then reviewed the actions undertaken by the EU in reaction to civil society campaigns:

- In 2002/2003 four resolutions were adopted by the ACP-EU joint parliamentary assembly referring to bushmeat;
- In 2003, the European Commission took measures against illegal import of meat including bushmeat (2002/995/EC);
- In 2004 the European Parliament petitions committee report adopted a resolution calling for EU Bushmeat Strategy Plan and the bushmeat issue was firmly put on the Brussels agenda;
- However, after 2005 there was very limited follow-up by the Commission, there was no Bushmeat Strategy developed and there was a refusal to integrate bushmeat into the FLEGT Action Plan.

As a result of these shortcomings, the bushmeat crisis came in the spotlight again:

- A 2009 TRAFFIC report showed that there has been an increase in bushmeat consumption in Central-Africa;
- A 2010 BBC report showed that there have been illegal imports into the EU airports;
- A 2010 UNEP and Interpol joint report, *The Last Stand of The Gorilla*, showed the link between gorilla poaching, mining and conflict.

Referring to the title 'What can Brussels do?' van Dorp concluded by listing some practical actions needed in order to get the bushmeat campaign back on track:

- There is a need to revitalise the lobby for an active role of the EU in the bushmeat crisis with a focus on health risks to the EU citizens and on the importance of biodiversity conservation;
- The EU should provide funding for development of an African enforcement plan for tackling the bushmeat trade (following the French Government who has provided substantial support for this initiative);
- Moreover, NGO campaigns targeting European multinationals that are buying products that are detrimental to endangered species should be set into motion. These campaigns should follow successful consumer campaigns such as the

“ The EU should provide funding for the development of an African enforcement plan for tackling the bushmeat trade”

Mark van Dorp

KitKat campaign, which focused on the unsustainable production of palm oil by Nestlé at the cost of the last orang-utans of Indonesia.



**Marie Müller**  
**International Coordinator,**  
**BICC / Fatal Transactions**

Marie Müller, researcher at the Bonn International Centre for Conversion (BICC) chose to present the work of Fatal Transactions (FT), an umbrella organisation currently coordinated by BICC. It is a network of European research institutes and NGOs, which is concerned with the resource-related grievances in Sub-Saharan Africa.

Fatal Transactions started as an umbrella organisation of NGOs that were shocked and concerned about the role diamonds played in financing wars in Sierra Leone and Angola at the end of the 1990s, Müller explained. Their mission is to impede natural resources from fuelling conflict and also conflict resources from being traded to the EU. FT lobbies for high international standards of production and engagement with local communities in order to increase accountability of governments and companies towards them. They do so because the dire living and working conditions in the mining sector in Africa and the inequalities and injustices that people in the mining sectors are confronted with also prepare the grounds for violent conflicts.

Inequalities between different ethnic groups within a given country can increase following natural resource extraction, she explained. In addition, issues of compensation, resettlements and land ownership fuel local conflicts in the resource regions. The present conflict in Eastern DRC shows that serious fatal transactions in the mining sector

are still going on in Africa. Several of the Fatal Transactions' member organisations are engaged in various ways in the DRC, often with Congolese partner organisations, in monitoring the contract revision process, or in organising training for local civil society groups to improve their advocacy skills, e.g. by using maps of mining locations and armed groups.

Müller proceeded by saying that Fatal Transactions participates in and encourage multi-stakeholder initiatives to find appropriate solutions and collaborates closely with African civil society organisations to have their positions better represented at the European level, for example in the civil society coalition at the Kimberley Process that FT is also part of.

Before addressing the role of the EU in the Illegal Trade of Natural Resources, Müller briefly explained what illegality meant in the context of production standards and conflict resources. Some grievances in producing countries are actually due to illegal activities of companies that are not sufficiently monitored by the host governments. Some engage in illegal logging, some do not adhere to legal provisions for environmental impact assessments. However, some of the companies' practices can also be perfectly legal and nevertheless contribute to violent contestations. For example, if in Nigeria, the local population has no legal right to land and has only usage rights and is therefore not sufficiently consulted and informed about company operations in their areas, she noted.

If "illegal trade" refers to unlawfully acquired resources, this would apply to trade in resources with rebel groups. As this trade provides the warring parties with the necessary financial means to buy weapons, ammunition and satisfy their fighters, we can say that trade in unlawfully acquired goods is conflict-relevant.

A study commissioned by the IES has shown that in the current international trade regime, trade with rebel groups is still mostly legal as long as there are no sanctions (UN or EU) on the traded commodities, with the exception of diamonds. However, trade with governments that continue to be legal, can also be a factor in intra-state conflicts, or can even contribute to prolonging a war, for

example, when the government is not able to defend itself against rebel forces without the trade in precious natural resources, she noted.

Recently, Chadian President Déby used oil revenues from the Chad-Cameroun pipeline project (2003 onwards) to increase the annual military budget from US \$14 million (FCFA 6.5 billion) in 2000 to US \$315 million (FCFA 147 billion) in 2009, in order to beat back a rebel attack on the capital Ndjamena in February 2008 and again in 2009. The example shows that in times of civil war, the legality or illegality of a transaction can change quickly, depending on which armed force has taken over power in the capital and constitutes itself as the legal government. The definition of legality is thus neither clear-cut nor fluid.

It is therefore clear that initiatives that base themselves on mere legality in the producing countries, address only certain aspects of conflicts around natural resources, Müller continued. They address war economies where rebel or militia forces occupy mining sites by force. They do not address grievances that prepare the breeding ground for further rebellions and violent conflict where people's entitlements to benefit from their country's natural resources are disregarded, as is the case with many African governments.

"If the EU deals with raw materials sources from parts of the world that are politically or economically unstable, this implies responsibilities and duties for the EU"

Marie Müller

If the European Union is serious about its commitment to democratic governance, it cannot allow itself to ignore the aspect of democratic participation of communities living in resource-rich regions of the world, she argued. Furthermore, Fatal Transactions believes that if the EU deals with raw materials sources from parts of the world that are politically or economically unstable, this implies responsibilities and duties for the EU. The EU should have domestic rules for commercial engagement, that is a regulatory framework that



stimulates companies to operate in due diligence and to respect human rights, including:

- Conditions for financing by the European Investment Bank, subsidies and export credits;
- Certain minimum social and environmental standards for operations abroad, for example, by imposing certain minimum sustainability criteria for natural resources to be imported into the EU for certain resources like Uranium that is mainly produced industrially and where markets are sufficiently controlled;
- Transparency regulations in operations abroad disclosing the origins of natural resources, revenues and royalties paid. We can look at the recently adopted US legislation, the Dodd-Frank legislation that requires listed companies to disclose all of this;
- Anti-bribery legislation that does not entice companies to pay bribes to foreign officials.

Furthermore, she concluded, more concerted efforts to endow African governments with the means and skills to monitor company operations and to ensure that natural resource extraction contributes to national development objectives should be made. This can only be done in close collaboration with national parliaments and civil society groups that have a sincere interest in improving company performance regarding social and environmental standards of production. One element can be certification.

Ultimately, the secure supply of raw materials to the EU is dependent on the sustainable extraction and exploitation of raw materials. The sustainability of resource extraction in producing countries is therefore in the EU's own interest.

## VI. Trade in Natural Resources - A Role for Remote Sensing?



**Dr Gordon Campbell**  
Senior Engineer, Science,  
Applications and Future  
Technologies Department,  
European Space Agency

Gordon Campbell focused on the unique yet crucial area of satellite earth observation (EO) and its possible contribution to mitigating illegal exploitation of natural resources.

Campbell noted that the exploitation of natural resources go through three successive stages including:

- collection/extraction of natural resources (legally or illegally) and support logistics;
- transportation of natural resources (legally or illegally);
- processing of natural resources (legally or illegally).

Each of these have different monitoring requirements associated with them, he continued.

However, satellite capabilities have to be used in a particular context which should be effectively integrated with other data sets and other means of interception, he noted.

The European Space Agency (ESA) has been focusing on three main types of natural resources where it has been doing relevant work. This includes fisheries, timber, minerals and also more recently on illicit crops and waste transportation that create similar monitoring requirements.

The legality of a particular product can be controlled at each of these particular stages, he continued:

- legality of capture/harvest/extraction of a natural resource;
- presence of illegally acquired raw materials in a particular shipment?
- presence of illegally acquired raw materials in a particular product?

EO can be a useful tool to respond to the first question, he noted, but less so for the second and third.

There are different points on the resource extraction chain with respect to fishing, mining and logging (capture/harvest/extraction, on-site processing and support logistics, transportation, storage and commercial exploitation). For each of the three cases when was the resource collected can be well answered by EO, but as we get closer to commercial exploitation the contribution of satellite EO decreases. High level of impact will be possible during the point of resource capture and during on-site processing and support logistics.

Satellite-derived data can be a useful tool, Campbell continued, but it needs to have certain qualities:

- Information must have verified accuracy – it has to be acceptable as evidence;
- It must be available to all parties on a routine basis with no asymmetry;
- It must be actionable which can be put into practice;
- It can be used by national authorities for own monitoring purposes (flag states/territorial authorities);
- It can be used by EU members for independent verification purposes.

Hence, he noted, attainable performance must be:

- sufficiently timely to support law enforcement application (in-situ verification/inspection and cueing of interception assets);
- sufficiently robust to support certification (i.e. limited possibility for spoofing/camouflage/evasion), so:
  - very high probability of detection and low false alarm rates;
  - sufficiently comprehensive spatial and temporal coverage;
  - sufficiently flexible to respond to changing surveillance requirements (e.g. different areas).

Gordon Campbell then proceeded to an analysis of the current capabilities and status of Satellite Earth Observation on:

## 1) Fisheries surveillance

### Vessel detection:

- used operationally in some EU states;
- trials underway for African and SE Asian states.

### Support logistics:

- detection of refuelling;
- factory and other vessels involved in transfer of catchment operational in some EU states.

## 2) Forest monitoring

### Deforestation monitoring:

- change in forest area;
- detection of clear cuts & burned areas operational in many countries;
- pre-operational under several REDD initiatives and in support to FSC.

### Support logistics:

detection of transportation routes used as support information in some national systems

### Storage:

possibility to detect anomalous concentration of timber in port areas.

## 3) Mining operations

### Extraction monitoring:

- detection of extraction assets used pre-operationally;
- detection of changes in levels of ore extracted;
- detection of artisanal activity around major mining areas;
- detection of activity at unlicensed/uncertified facilities.

### Support logistics:

- detection of leaching by-products (oxides, cyanide complexes etc.);
- detection of changes in tailings levels.

Moving on to the future contribution of satellite EO, Gordon Campbell highlighted some of the longer term perspectives:

Current satellites are reaching (or have reached) the end of their operational life spans, he noted. ESA is currently developing a new set of operational satellites for Global Monitoring as part of the GMES Space Component which includes the Sentinel series to be launched starting in 2012.

They have been designed to meet specifications agreed by certain Member States. As a consequence, these satellites will be generating a lot of freely available data over areas like Africa, South East Asia.

In addition, various concepts are under consideration as complementary to the Sentinel series:

- Geostationary HR (4m) optical/IR imagery
- High resolution (20 – 30m) Thermal IR
- low frequency (L or P band) SAR systems

In concluding, Gordon Campbell repeated that Satellite-derived information can provide information on activity at point of capture/harvest/extraction but is not a stand-alone solution.

Such information can therefore support:

- developing countries develop effective enforcement regimes;
- EU member states build intelligence on hotspots, overall compliance and effectiveness of measures currently in place;
- certification authorities verify local management practices.

Many relevant techniques are being demonstrated and transferred to operational entities under ESA funded exploitation projects, he said. Additional performance verification remains necessary for law enforcement purposes. ESA is developing follow-on operational systems to ensure operational continuity to current observation systems. ESA will issue an Invitation to Tender in October 2010 that can support dedicated evaluation of satellite EO for the purposes considered here, he concluded.

## VII. Discussion - The Way Forward



**Ronald A. Kingham**  
Director, Institute for  
Environmental Security

IES Director, Ronald A. Kingham, opened the final session asking the panellists to focus on several key questions regarding future action and possible cooperation among the participating organisations.

The conference has provided a very good state-of-the-art overview of the issues before us, valuable economic and political analyses of the problems and a range of options for addressing the issues.

Can we envision a general approach to controlling trade in illegally extracted resources - one that covers minerals, timber and other resources for all countries? Or should the problems continue to be addressed per sector or per country or region?

Does the answer need to be legal, voluntary or both? If there should be a general legal approach, should it be taken at the international level or at the EU level?

If the focus should be (at least initially) on the EU level, can our organisations assist Members of the European Parliament and the European Commission in drafting legislation? What can and should the EU do?

What else can we - the participating organisations at this conference - do collectively? In addition to producing a report of the conference, IES is prepared to set up an on-line forum where the conference participants can continue to exchange information on their research and other activities and share reports on other relevant developments.



**Harrison Mitchell**  
Director, Resource Consulting  
Services

There needs to be a bottom-up action on the ground. A lot of commonalities that we have been discussing have to do with the most vulnerable stake-holders, i.e. the artisanal miners and the people working on the ground, traders working with illegal resources. There therefore needs to be capacity building at all levels even at the governmental level. Even though it is great for us to do the work in Europe, setting up a law for example, there needs to be agreements reached at the local level as well.



**Daniel Fiott**  
Researcher, Madariaga -  
College of Europe Foundation

When we ask the question “what can Brussels do?”, the first question that comes to mind should be who is Brussels? We are speaking of a broad spectrum of actors who have been identified including EU institutions, corporations and EU Member States and these have to then be placed into the whole international context. From the perspective in Europe one of the things that we can try to do is to use the Lisbon Treaty and the External Action Service (EAS) to their full potential. At the moment we are trying to establish this new service, and so now is the time to feed into policy mechanisms issues like illegal trade.

What we have got to aim for is a holistic approach. The security perspective is important, but developmental issues need to be brought in as well as trade. There is this separation of powers and our task as civil society members is to push for the idea that the EU can no longer do any thinking in separate agencies or institutions, they have got to bring them together.

Remote Sensing is one clear area where the EU can really try to pull its resources together. In total there are more than 10 satellites in the EU Member States, but it does not seem that they are being used for the issue of illegal trade of resources. From a very practical point of view, satellites can be fed into a much larger strategy. After 2013, when EU's Africa country strategy papers have to be reworked, are we going to see acknowledgement and implementation of these issues in such policies?



**Catherine Bearder, MEP**  
**Member, Committee on**  
**International Trade, European**  
**Parliament**

From my point view, as a member of the International Trade Committee which is grappling with Free Trade Agreements while trying to build into those Corporate Social Responsibilities that we would expect from the companies working in the EU, in third countries and also building in environmental protection is very complicated. We can write the laws, but unless you have some mechanism of enforcement that remains a problem.

The other problem is defining what is legal and illegal. Too often legal permits are issued for commodities that have internationally been deemed illegal. So we need to decide what is in need of protection. The bottom up approach is welcomed. The European Union by setting the legislation is working against certain member states who want to open up and just have free trade without any restrictions. As developing countries may not have the sort of governance that is ideal or even face corrupt governments, who are abusing their own citizens and own resources, we need to build civil society as well as take action against illegal resources. Some of these countries are not benefiting from the sale of their own natural resources.



**Ian Smillie**  
**Chairman, Diamond**  
**Development Initiative**

While working on previous reports with other experts we have called upon the creation of an international diamond regulation system and for a UN embargo on Liberian diamonds. People said that this would never happen and that we needed to be realistic. It did happen and the Kimberley Process is a marvellous achievement. It has teeth; it just needs to do some biting. If it did bite, it would start to be a lot more effective. There are no substitutes for regulatory systems with teeth. American legislators have understood this finally. Governments, warlords, commercial enterprises have to understand that there will be penalties if they break the rules. You can have all sorts of information and oversight, including spy satellites, but if you are not prepared to act on the information you have, it not worth very much. Right now there are conflict diamonds in Côte d'Ivoire and we can see what is being mined. It has been seven years we have had no success in stopping it.

Peer review mechanisms are fine, but there is no substitute for independent third party verification. Regulatory systems need space to change. Criminals are always trying to get one step ahead of the law. They will always be moving, shifting and adjusting. Regulatory systems must be able to do that as well.

Public engagement, the media, a strong civil society are all absolutely essential. The diamond industry is always going to need the civil society. It is forever. It is difficult for civil society. It is hard to raise money for this and it is risky in a variety of ways. Civil society needs support and space

We have spoken a lot about enforcement and we have heard several times that it is not just about enforcement it is also about development. This has been the discourse everywhere, but there is never enough money pumped into development. Working with artisanal miners, loggers etc. is messy and difficult. They are regarded as problems and sometimes as outlaws and something to be put down and ended. We need to change our

thinking about this. We are talking about tens of millions of people. We need to spend time, effort and money on the development side of things.

The cost of UN peacekeeping in Liberia, Côte d'Ivoire and Sierra Leone for 12 months, that is from June 2010 to June 2011 is 2.38 billion dollars and this is double or triple the amount of development aid that has gone into these countries over that last 2 or 3 years or maybe even 10 years in the cases of Liberia and Côte d'Ivoire. We tend to spend money on remedial action but not on preventive action.



**Jon Buckrell**  
Programme Manager, Illegal Logging and Trade, Chatham House

We need to focus on what we mean by illegal trade in natural resources. It means different things to different people. At this point in time, we are talking about the illegal trade in natural resources, but it is in fact not illegal but legal. What we are talking about is the trade in illegally sourced natural resources. Illegal trade in natural resources is being used interchangeably with the trade in conflict resources while they are not necessarily the same thing. Before advising Europe, we need to be sure what we are advising them about as in most cases conflict resources will be a subset of illegal resources. Illegal resources can include several other things like social criteria, environmental criteria, health criteria. If you are looking at conflict resources, it is the worst part of this trade. Different definitions of conflict resources exist, for instance people involved in the Kimberley Process are not really happy with the way conflict resources is currently defined by the Process itself.

We should not focus only on conflict resources, but illegal resources which will by default include conflict resources. The proliferation of different initiatives to look at different resources separately is also a matter of concern. We have the Illegal Fish Legislation, Illegal Timber Legislation, The Kimberley Process etc. To what extent are we going to have separate legislations for gold, silver, cassiterite, coltan and other minerals? It is not helpful to have a separate legislation for each

problem as and when it comes up. The US legislation deals with one country. What happens when trade in conflict resources in the DRC is over? That legislation becomes obsolete and there isn't anything to cope with something that may come up in the future.

In answer to the question, what can Brussels do? Something like a Lacey Act Approach is needed for all natural resources. Starting with the European level, and even better at an International Level, but that should not stop the Europeans from starting right away.



**Wybe Douma**  
Senior Researcher, Law of the European Union, T.M.C. Asser Institute

It is important that when the legal approach is chosen by the EU, we must be aware that what we see as green protectionism is not seen as green protectionism by a third country. We need to take steps and the EU should in such instances not hesitate to go forward unilaterally. We have to realise that even with all the hurdles that the WTO with its international trade laws seems to set up, unilateral steps are not illegal under WTO law. It is severe, but while following certain steps and meeting conditions it is not impossible and the EU can make a difference by leading the way in many respects.



**Dr Gordon Campbell**  
Senior Engineer, Science, Applications and Future Technologies Department, European Space Agency

There is scope to do a lot even without Brussels by exchanging best practice and information and by collaboration. You do not need to wait for Brussels to go ahead.

## VIII. Conclusion

The one-day conference allowed the audience to grasp some of the complexities lying behind illegal trade in natural resources. Using both regional and resource-based examples, the speakers insisted on the need for a better understanding of the issues at stake. Numerous figures about the rate of illegal trade in natural resources are regularly being put forward but this remains extremely difficult to evaluate with certainty, even more so when there is a confusion in the use of the term “illegal” itself. Hence, there needs to be a distinction between illegal extraction, illegal exports and other types of illegalities. “What we are mostly talking about is the trade in illegally extracted natural resources, which includes social, environmental or health issues, ‘conflict resources’ being the worse part of this trade”<sup>3</sup>. It is key to have the diagnosis right since this will deeply influence the level and effectiveness of responses.

Secondly, attention was given to the multiplicity of actors involved in illegal trade and the need to treat them separately. “A distinction needs to be made between illegitimate activities, involving armed groups and criminals deliberately acting illegally and informal activities, involving artisanal workers who often do not have the skills or capacity to operate legally. Traders themselves are engaged in some illegitimate and some informal activities, depending on whether they buy from armed groups, work without licence or participate in smuggling activities”<sup>4</sup>. The distinction is important as the responses will have a different impact on different actors. For instance, “as much as illegal trade can negatively affect rural people’s lives, so can law enforcement against it, as it often uniquely targets informal activities of local communities and poorer households that usually have no legal title to land and resources. Meanwhile, non-authorized military and political players are usually able to evade stricter law enforcement that results from nationally or

internationally imposed embargoes, suspensions or trade restrictions”<sup>5</sup>.

Detailed political economic and conflict analyses should be carried out. This can shed light on the different relations between actors and help policy-makers design and implement interventions in a conflict-sensitive manner. In parallel, in-depth analysis of the legal and regulatory framework should reveal the most pressing priorities for longer-term in-country reform.

At the international level, most attempts can be classified into two categories: “Current international approaches mainly include punitive (bans, sanctions) and control measures (certification, supply chain assurance, due diligence). But punitive measures tend to push the trade into the underground on the one hand and control measures largely affect informal activities and not violent groups on the other hand”<sup>6</sup>. “There is a need to help policy-makers and practitioners understand that technical trade control measures will not resolve conflict. Reinforcing key institutions involved in the management of natural resources can be far more beneficial than making trade in certain resources illegal”<sup>7</sup>.

The recent EU legislation banning the import of illegal timber and timber products into the European Union has certain loopholes such as the lack of criminal sanctions against even the worst of crimes, lack of inclusion of indigenous communities in the text, etc. Although it is problematic, this is a first step that will need to evolve into a more integrated approach.

It is important to note that trying to protect the environment or to clean international trade won’t work if the wider causes that allowed such mismanagement to occur in the first place are not addressed effectively. To this end, the international community cannot avoid the debate on development in unstable resource-rich countries. Informal exploitation of natural resources largely result from the lack of alternatives of local communities and provide an important source of

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<sup>3</sup> J. Buckrell

<sup>4</sup> H. Mitchell

<sup>5</sup> R. de Koning

<sup>6</sup> H. Mitchell

<sup>7</sup> J. Van Der Zwan

income for sometimes poor/marginalised populations. Excluding them from this trade without organising alternatives would result in increased poverty and instability. Punitive and control measures therefore need to be accompanied by a developmental/capacity building and governance approach. We tend to spend money on remedial action but not on preventive action.

In conflict-affected regions, Security Sector Reform (SSR) programmes need to be set up in priority as stability is a prerequisite for the unfolding of effective development and environmental policies. Furthermore, in order to avoid extracting industries contribute to conflict it is absolutely vital to promote transparent governance of the minerals trade. This is even more true for countries where state security forces - like in Zimbabwe - are responsible for the violence and rights abuses against artisanal miners. "This situation has wide-ranging implications for the generation of new dynamics of violence driven by economic and political contestation, and for undermining the reconstruction and development capacities of the public sector"<sup>8</sup>.

If trade is a necessary catalyst for social and economic development, economic activity and trade left to its own devices can often do more harm than good in conflict-prone or conflict-affected regions<sup>9</sup>. It is our task as civil society organisations to encourage the EU to not think in silos involving separate agencies or institutions, the EU needs to bring all the relevant actors together.

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<sup>8</sup> R. Saunders

<sup>9</sup> J. Van Der Zwan



## IX. Recommendations

### General Considerations

- The EU could play a pivotal role in promoting the protection of the Right to Permanent Sovereignty of People and States over Natural Resources enshrined in the UN General Assembly Resolution 1803 (XVII) of 1962: The illegal exploitation and trade of natural resources shall be considered as a violation of the right of people and member states;
- The EU and its Member States should develop a general legislation to forbid the import of any illegally extracted natural resources. This legislation could take the form of a clean trade legislation<sup>10</sup>. In addition, the EU could discourage illegal trade by introducing a comprehensive mechanism for the certification of natural resources: the set of policies, laws and regulations to serve as a tool for combating the illegal exploitation of natural resources. This mechanism shall institute accredited standards as regards natural resource exploitation and shall include provisions on certification of origin including labelling, monitoring, supervision and verification;
- The EU should develop an integrated policy on trade in natural resources, taking into account the development and sustainability criteria. This policy development could be part of the new mandate of the European External Action Service (EEAS) but could also be integrated into existing initiatives such as the Kimberley Process.
- The EU must encourage its trade partners and aid recipient countries to review their national legislation on the illegal exploitation of natural resources to ensure that they comply with the provisions of relevant international instruments and legal norms;
- More financing is needed for preventive action. There is never sufficient money to meet development needs.

### Governance & Accountability

International action against illegal resource trade does not stop at the border of a producing country but should ideally:

- Involve forest/mining law reform to establish low cost and accessible mechanisms to formally recognise rights of local communities and smallholders over resources they already manage.
- Empower local communities and civil society to monitor compliance of forestry/mining laws with support from government authorities, as well as performance of state mining, forestry and law enforcement agencies.
- Establish clear and accessible mechanisms to allow people to seek redress for government decisions and actions that may have harmed them.
- Concentrate enforcement efforts on the largest violators in the industry, military and government administration, for instance through improving anti-money laundering laws, supporting domestic litigation procedures, and stimulating internal screening processes within government agencies.

### Development

- There needs to be a bottom-up approach. A lot of commodities subject to illegal extraction are important for the most vulnerable stake-holders, i.e. the artisanal miners and the people working on the ground, traders working with illegal resources. Therefore, there needs to be capacity building at all levels. The EU should consider intensive mediation of relationship-building activities between local organisations, companies and local and national governments.
- Furthermore, more concerted efforts to endow governments from producing countries with the means and skills to monitor company operations and to ensure that natural resource extraction contributes to national development objectives should be made. This can only be done in close collaboration with national parliaments and civil society groups that have a sincere interest in improving company performance regarding social and environmental standards of production. Certification can be a useful tool here.

### Conflict Resources

- Currently the approach is mostly one of 'sticks' towards the private sector, but there is a real danger of total withdrawal of legitimate actors from some conflict-affected areas. The legitimate

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<sup>10</sup> L. Wenar, *Clean Trade in Natural Resources. A Policy Framework for Importing States and Multinationals in the Extractive Industries*, King's College London, 2010: [wenar.info/Clean\\_Trade\\_Brief\\_10-10.pdf](http://wenar.info/Clean_Trade_Brief_10-10.pdf) ;

private sector actors need to stay engaged so that they can help reform the sector from the inside. The private sector also needs help at the local level. Therefore an overall capacity building at the government, NGO and private sector levels is crucial.

- More attention should be given to the cases of human rights abuses by state security actors around extractive sites as this represents in many ways the modern face of conflict resources.

### **Remote Sensing and Earth Observation**

- Remote Sensing is one clear area where the EU can make an important contribution. Satellites operated by EU Member States are not yet being sufficiently deployed for this issue. Relevant space-based systems need to be brought into a much larger strategy.
- Brussels should establish independent specialised bodies responsible for mapping conflict resources using Geographic Information Systems (GIS). This can be very effective in controlling extractive sites.

## Annex I - Conference Programme

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|---|---|
|  | <p>“ILLEGAL TRADE IN<br/>NATURAL RESOURCES”<br/>WHAT CAN BRUSSELS DO?</p> |
|   | <p>CONFERENCE 29 - 30/09/10</p>   |

Conference organised by the Institute for Environmental Security with the support of the Netherlands Ministry of Foreign Affairs / Development Cooperation, the European Economic and Social Committee and the Belgian Presidency of the Council of the European Union



European Economic and Social Committee  
Room VM3, rue Van Maerlant 2, 1040 Brussels

## Programme

### Day One - 29 September 2010

#### 19:00-21:00 **Opening Dinner**

Welcome by **Tom SPENCER**, Vice-Chairman, Institute for Environmental Security / Former President, Committee on Foreign Affairs, Security and Defence Policy, European Parliament

#### **Keynote Speaker**

**Catherine BEARDER**, MEP, Member, Committee on International Trade, European Parliament

### Day Two - 30 September 2010

#### 09:00-09:30 **Registration and Welcome Coffee**

#### 09:30-11:00 **Session I: Problem - Illegal trade in natural resources, a global issue and the limits to existing tools**

- Welcome by **Josef ZBORIL**, EESC Member, Employers' Group

Moderator **Wouter VEENING**, Chairman / President, Institute for Environmental Security  
• **Harrison MITCHELL**, Director, Resource Consulting Services

- **Joost VAN DER ZWAN**, Economy & Peacebuilding, International Alert
- **Ruben DE KONING**, Researcher, Stockholm International Peace Research Institute (SIPRI)
- **Satu HASSI, MEP**, Member, Environment, Public Health and Food Safety Committee, European Parliament

Discussion

**11:00-11:30 Coffee Break & Press Conference**

**11:30-13:00 Session II: Analysis - The politics and economics of illegal trade**

- Moderator **Bernard SNOY**, Visiting Professor, Institute for European Studies, Catholic University of Louvain / Senior Advisor, IES
- **Alain DELETROZ**, Vice-President Europe, International Crisis Group
  - **Richard SAUNDERS**, Associate Professor, Department of Political Science, York University
  - **Michel GARY**, Programme Coordinator, Forest Governance Integrity Programme, Asia Pacific Department, Transparency International

Discussion

### A. Governmental & Legislative Action



**Rapporteur: Wouter VEENING**,  
Chairman / President, Institute for  
Environmental Security

#### Resource Persons

- **Stephane CHARDON**, EU Representative at the Kimberley Process, DG RELEX, European Commission
- **Laura RIO**, Senior Programme Manager, Environment and Security Initiative (ENVSEC)
- **Amelie TAOUFIQ**, Legal Officer, Secretariat of the Basel Convention

Discussion

### B. Corporate & Civil Society Action



**Rapporteur: Ruben DE KONING**,  
Researcher, Stockholm International  
Peace Research Institute (SIPRI)

#### Resource Persons

- **Ian SMILLIE**, Chairman, Diamond Development Initiative
- **Pekka ISOSOMPPI**, Director, Social Regulation, Nokia
- **Mark VAN DORP**, International Fund for Animal Welfare (IFAW)
- **Marie MÜLLER**, International Coordinator, BICC / Fatal Transactions

Discussion

VS

**13:00-14:00 Lunch**

**14:00-15:30 Session III: Solutions & Gaps - International, legal and voluntary initiatives**

**15:30-16:00 Coffee Break**

**16:00-16:30 Presentation by the Rapporteurs of Session III A & B**

**16:30-16:45 Trade in Natural Resources: A Role for Remote Sensing?**

- **Dr Gordon CAMPBELL**, Senior Engineer, Science, Applications and Future Technologies Department, European Space Agency

**16:45-17:30 Session IV: The way forward - Panel discussion - Q&A**

Moderator **Ronald A. KINGHAM**, Director, Institute for Environmental Security

Panel • **Jon BUCKRELL**, Programme Manager, Illegal Logging and Trade, Chatham House

- **Ian SMILLIE**, Chairman, Diamond Development Initiative

- **Catherine BEARDER, MEP**, Member, Committee on International Trade, European Parliament

- **Harrison MITCHELL**, Director, Resource Consulting Services

- **Daniel FIOTT**, Researcher, Madariaga - College of Europe Foundation

**17:30-18:30 Farewell Reception**

## Annex II - Speakers

### Senator Sanauallah Baloch



Senator Sanauallah Baloch is a former Member of Parliament of Pakistan, served as the Member Senate of Pakistan (2003-2008) and as Member National Assembly (1997-1999), hence he has extensive understanding and experience in Pakistan's constitutional and institutional affairs.

Senator Baloch also served as a Parliamentary Secretary to the Interior and Narcotics Control Division in 1998. In addition, he served as Member Standing Committee on Local Government (Decentralisation), Senate Function Committee on Government Assurances and Standing Committee on Problems of Less Developed Areas. In 2005, He was honoured as a fellow by the Stanford Institute for International Studies, CA, USA on Democracy, Development and Rule of law program. Senator Baloch research and professional expertise are in the field of Democracy, Federalism, Parliamentary Affairs, Political Parties, Constitutionalism, Conflict Resolution, Women and Human Rights.

Senator Baloch was also appointed as a Member of Parliament special committee on Balochistan formed in September 2004, where he was the major architect of drafting and placing Balochistan's major political and economic issues before the committee. The committee's failure to deliver as specified in the terms of reference led Senator Baloch to resign from the committee in December 2004.

### Catherine Bearder



Catherine Bearder is one of two Liberal Democrat MEPs that represents the South East region in the European Parliament. She is a member of the Parliament's Committee on Regional Development and Committee on International Trade. She is also a member of the Parliament's delegation to the Joint Parliamentary Assembly between the EU and the ACP (Africa, Caribbean and Pacific Regions).

She works to ensure that environmental protection is core to European policy, not just an 'add on'. Having travelled the world studying conservation issues, it is no surprise that Catherine puts prime

emphasis on tackling climate change. She is vice-president of the Green Liberal Democrats and looks forward to championing the environment in the European Parliament.

She has also campaigned on social justice and rural issues, with particular interest in tackling human trafficking.

Catherine Bearder is a staunch supporter of the European ideal, but unafraid to challenge the realities of the EU when they don't meet that ideal. As Director of Campaigns for Britain in Europe in our region, she worked to highlight the massive economic benefits of EU membership. She has backed the 'one parliament' campaign and thinks MEPs needs to push for more reforms to modernise the EU.

### Stéphane Chardon



After university (legal and political studies in Strasbourg, Rome and Paris) and military service, Stéphane Chardon served in the Secretariat for European Affairs in Paris. He joined the European Commission in Brussels in 1996 as a lawyer. He entered the Commission's external relations department in 1999 and was posted in EU Delegations to Asmara (Eritrea) and Moscow (Russia), in charge of economic and political affairs.

Since 2006, he is responsible for EU sanctions and the Kimberley Process in the Commission's External Relations Directorate-General. He was appointed Chair of the Kimberley Process Working Group on Monitoring.

### Ruben de Koning



Ruben de Koning is a Researcher with the SIPRI Armed Conflict and Conflict Management Programme, carrying out research on the artisanal mining sector and its association with conflicts in the Democratic Republic of the Congo (DRC).

He previously worked as Research Associate on Land Governance for the UN Development Programme Oslo Governance Centre, 2008 and as Associate Expert, Forest-related Conflict for the Centre for International Forestry Research in Bogor/Yaoundé.

He is a social scientist and development specialist and has carried out extensive field research in the Horn of Africa and Central Africa. His research interests include interstate border disputes, small-arms violence and rebel movements in the context of natural resource scarcity and abundance.

### Alain Délétroz



Alain Délétroz is Vice President (Europe) of International Crisis Group.

He concentrates on European policy and advocacy issues, closely focused on the EU, its member states and Russia. He maintains senior-level contacts and advocates Crisis Group recommendations to officials in Brussels, Latin America, the EU member states and Russia. He pays regular advocacy visits to these countries and gives interviews to their media on the conflicts Crisis Group covers.

His main areas of expertise are Russia, Northern/Southern Caucasus and Central Asia, Latin America, conflict assessment and conflict resolution, democratic reforms and humanitarian assistance.

### Wybe Th. Douma



Wybe Douma studied law at the University of Groningen (The Netherlands) and the Eberhard Karls University, Tübingen (Germany) and wrote his Doctorate thesis on The Precautionary principle. Its application in International, European and Dutch Law (Supervisors: Prof. C. Lambers, Prof. Dr. L.W. Gormley (University of Groningen)). He is currently Senior Research Fellow and Head of the European Law section at the T.M.C. Asser Institute (The Hague, The Netherlands).

### Daniel Fiott



Daniel Fiott joined the Madriarga Foundation in August 2009 as a Research Fellow and is responsible for the Preventing Conflict programme.

He holds a B.Sc. (Hons) in International Studies and completed an M.Phil. in International Relations at the University of Cambridge. Daniel's research

interests include European Union CFSP/CSDP; natural resources; humanitarian intervention; EU-China relations; International Relations theory/history and international security.

### Michel Gary



Michel Gary joined Transparency in March 2009 within the Forest Governance Integrity Programme, in the Asia-Pacific Department. He coordinates the implementation of the first phase of the programme, which focuses on the development of tools to map, analyse and fight corruption.

From 2005 to 2008, Michel worked at the United Nations in Geneva, mainly at UNCTAD on training and capacity-building projects for Asian and African countries. This included project management tasks, as well as taking part in the development of new training materials.

He studied at the University of Strasbourg, France and holds a Bachelor in English studies and a Masters degree in International Relations, with a special emphasis on development projects and communication.

### Satu Hassi



Satu HASSI is Member of the European Parliament and member of the Environment, Public Health and Food Safety Committee.

Mrs. Satu Hassi has substantial experience in European level decision making, notably due to her position as Minister for Environment between 1999-2002. During the Finnish EU-presidency, in the second half of 1999, Mrs. Hassi acted as president of the Environment Council.

Mrs. Hassi was Member of the Finnish Parliament for 13 years, since 1991, until her election to the European Parliament in June 2004. At the time of her election to the European Parliament, she was Vice-Chair of the Committee on Environment of the Finnish Parliament. In July 2004 Mrs. Hassi was elected Vice-Chair of the Committee on the Environment, Public Health and Food Safety in the European Parliament.

Between 1997-2001 she acted as Chairwoman of the Green Party in Finland. She has also several

times been elected Chairwoman of the Green Group in the Finnish Parliament, first time in 1991-93, when she was a new MP, and lastly after the parliamentary elections in March 2003.

## Pekka Isosomppi



Pekka Isosomppi (born 1972) currently holds a position of Director, Social Regulation at Nokia Corporation, for which he has worked in various positions since 1997. He follows closely the societal expectations, demands and regulation as they evolve and form challenges and opportunities for business in the technology sector. Among other things, Pekka Isosomppi has been involved in the development of the ISO26000 standard in technical committee 117 of the Finnish Standards Institute and through business organisations.

In addition to his professional work, Pekka Isosomppi is also a PhD student at the University of Helsinki since 2009, working on a thesis on corporate impacts in world politics. He holds Master of Social Sciences degree from the University of Helsinki.

## Ronald A. Kingham



Ronald A. Kingham is a co-founder and Director of the Institute for Environmental Security where he coordinated the organisation of 'The Hague Conference on Environment, Security and Sustainable Development' held at the Peace Palace in May 2004.

He is also co-founder and Director of the Environment and Development Resource Centre, where he served as co-ordinator / editor for the Drafting Committee for "Roots of the Future: Global NGO Conference in relation to the 1992 Earth Summit" and where he co-founded the European Council on Drugs and Development.

He is also former Executive Director of the International Coalition for Development Action and has also carried out projects for the Environment Liaison Centre, European Partners for the Environment, European Environmental Bureau, the European Commission - DG Environment, and Shell International. In 2000-2001, he was technical advisor to the UNITAR Project: "Who Needs What to Implement the Kyoto Protocol? An Assessment

of Capacity Building Needs in 33 Developing Countries".

Educated in the US and Europe, he is a political scientist with a specialisation in international relations and European integration. His studies also focused on European history, human rights and development economics.

## Harrison Mitchell



Harrison Mitchell is director at RCS and a researcher specialising in investigations of corruption, beneficiation, politically exposed persons, commodities and minerals.

He has worked for the Financial Times as a senior researcher, Global Witness - a leading anti-corruption watchdog, and since co-founding Resource Consulting Services, for a number of well-known organisations including DFID and the London School of Economics. Professional landmarks include publishing groundbreaking investigations on militarised mining for the FT and RCS, working as a researcher and writer on several investigations into corruption and conflict in Central Asia and Africa, and performing country audits of China and Lebanon for the Kimberley Process Certification Scheme for Rough Diamonds.

Harrison is experienced in complex case management required for larger investigations and currently works on cases for the private, public and non-profit sectors. Harrison has worked in Africa, the Middle East, South America and Asia in a number of different countries.

He is currently completing an MSc in Sociology (Human Rights) at the London School of Economics; his professional training includes libel training in the publication of investigations and operating in high risk environments.

## Marie Müller



Marie Müller, Bonn International Center for Conversion (BICC), works in the research team on Natural Resources and Violent Conflicts. Since 2010, she performs the function of International Co-ordinator of Fatal Transactions, a European network of research institutes and NGOs that is concerned with the impact of European purchase of extractive commodities in African producing



countries. Fatal Transactions is a member of the Civil Society Coalition of the Kimberley Process Certification Scheme to impede conflict diamonds.

Her primary research interest lies with the question of what conditions the governance of natural resource exploitation and how conflicts are generated around resource extraction in sub-Saharan Africa. She recently co-authored two BICC studies about the significance of natural resources in Western African conflicts, namely Côte d'Ivoire and Nigeria, including field work.

Marie Müller studied International Relations (BA) at Dresden University and Global Political Economy (MA) at Sussex University, Brighton, United Kingdom. She studied at the University of Dar es Salaam, Tanzania, in 2005. In her studies, she mainly researched on North-South-relations, the global trade regime, economic development in Africa and political and economic theory.

### Laura Rio



Laura Rio has joined UNEP as Environment and Security (ENVSEC) Initiative Senior Manager.

Laura has worked in the UN system for more than 15 years some in environmental hot spots such as the Aral Sea basin as a manager of UN and EU projects for improved access to drinking water and sanitation in rural areas. As UN interagency coordinator she helped facilitate the transit of aid relief from Uzbekistan to Afghanistan.

Laura is a national of Italy and has an MA in Development Studies with specialisation in health management and planning.

### Richard Saunders



Richard Saunders is Associate Professor in the Department of Political Science at the York University. He started his collaboration there in 2002 after 17 years working as a journalist and researcher in southern Africa.

His research focuses on civil society engagement in political and economic reform processes in Africa. He is currently researching the re-emergence of South African capital as a dominant regional player, and the implications for national stability and regional integration.

### Ian Smillie



Ian Smillie is Chairman of the Diamond Development Initiative.

He founded the Canadian NGO, Inter Pares, and was Executive Director of CUSO. He has worked on projects with the Humanitarianism and War Project at Tufts University (now the Feinstein International Center) since 1997 and was an adjunct professor at Tulane University from 1998 to 2001. As a development consultant he has worked for many Canadian, American and European organisations.

Ian Smillie was a founder-participant in the 49-government 'Kimberley Process' which has developed and is managing a global certification system to halt the traffic in 'conflict diamonds'. He was appointed to the Order of Canada in 2003.

### Joost Van Der Zwan



Joost Van Der Zwan joined International Alert in 2009 as Senior Programme Officer working in the Peacebuilding Issues Programme.

In this capacity, he is responsible for carrying out research and influencing policy with regard to economic recovery and peacebuilding in war-torn states, with a specific area focus on the Great Lakes and the Horn of Africa. Before joining International Alert, he worked as a Political Affairs Officer in the Department of Peacekeeping Operation's Africa Division, dealing with the UN missions in the DRC and Burundi. He has previously worked for the LSE's Crisis States Research Centre and Oxfam Novib, and carried out consultancies and assignments for the Dutch Ministry of Foreign Affairs, the World Bank, Save the Children UK and Control Risks.

Joost holds an MSc in Development Management, an MA in Advanced Development Studies, a BA in International Relations and a degree certificate in Peacekeeping and Peacebuilding.

### Mark van Dorp



Mark van Dorp is an environmental economist with 15 years of working experience as a researcher, consultant and program manager, working in the

Netherlands, Cameroon, Gabon, Mali and Sudan.

Mark is specialised in analysing the economic value of biodiversity and natural resources. He is an expert in the field of value chain analysis of natural products. The relationship between environment and conflict is a central theme to most of his work. Among others, Mark has carried out consultancy assignments for IUCN, WWF, FSC, IFAW (International Fund for Animal Welfare), Oxfam Novib, ICCO, Hivos, Clingendael Institute and the Dutch Ministry of Foreign Affairs.

In 2008, he has set up DUVILLA, a consultancy firm focusing on sustainable value chains, renewable energy, waste management and sustainability in peace building ([www.duvilla.nl](http://www.duvilla.nl)). DUVILLA is building bridges between different stakeholders in conservation, development and humanitarian aid and the business community. It is also building bridges between local entrepreneurs in the South and companies and NGOs in the North, with the aim of integrating sustainability in every organisation's policies and practices.

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Chair of Ethics, School of Law  
King's College London

“In fact, across the globe, communities of already suffering people are plunged into (...) desperate situation because of looting of their natural wealth, unlawful expropriation and illegal natural resource trading. This does not only deprive them from their natural belonging but evolves in a cycle of miseries, including conflicts, civil war, humanitarian and human rights crisis, insecurity and endless poverty and hunger”

**Senator Sanaullah Baloch**

Balochistan Institute for Development  
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“The priority in reforming global commerce is not to replace “free trade” with “fair trade”. The priority is to create trade where now there is theft”

**Prof. Leif Wenar**

King’s College London

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