

**Pathfinder conference 29/30 September 2010**  
**Brussels**  
**„Illegal trade in natural resources. What can Brussels do?“**

**Marie Muller**

Good afternoon. I am very happy to represent some civil society's perspective at today's conference. Fatal Transactions is a network of European research institutes and NGOs who are concerned with resource-related grievances in Sub-Saharan Africa, and our institute, the Bonn International Center for Conversion, currently acts as coordinator of the network. Fatal Transactions started as umbrella organization 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. Our mission is to impede natural resources from fuelling conflict. That is, our mission is not merely to stop the trade in conflict resources but to impede resources from generating conflict. That is why we lobby for high international standards of production and engagement with local communities and artisanal miners to increase accountability of governments and companies towards them. We do so because the dire living and working conditions in the mining sector in sub-Saharan 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. In addition, issues of compensation, resettlements and land ownership fuel local conflicts in the resource regions.

Unfortunately, 10 years after the campaign started, there is not much reason to celebrate. The present conflict in Eastern DRC shows that serious fatal transactions in the mining sector are still going on in Africa – and here, I do not only refer to trade with rebel forces but also problems in the artisanal mining sector, which are not properly addressed in the Kimberley Process Certification Scheme. Several of our member organizations are engaged in various ways in the DRC, often with Congolese partner organizations, in monitoring the contract revision process, or in organizing training for local civil society groups to improve their advocacy skills, e.g. by using mappings of mining locations and human rights violations by armed groups.

We participate in and encourage multi-stakeholder-initiatives to find appropriate solutions and we collaborate closely with African civil society organisations to have their positions better represented at European level, for example in the civil society coalition at the Kimberley Process that Fatal Transactions is also part of.

I initially sought to comment on the theme of the conference, that is “illegal” trade in natural resources, but luckily this has already been done extensively by speakers in Panel I (See presentations of Harrison Mitchell, R.Koning, International Alert).

Therefore I merely reiterate that 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 and the like. 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 as such (only usage rights) and is therefore not sufficiently consulted and informed about oil company operations in their areas.

In times of civil war and post-conflict, the character of legality is quite fluid. Entities can switch quickly from illegal to a legal status, such as CNDP in Eastern DRC before and after it was integrated into the national army FARDC. The definition of legality is thus not that clear-cut.

It is therefore clear that initiatives that base themselves on mere legality in the producing countries, do only address certain aspects of conflicts around natural resources. They address war economies where rebel or militia forces occupy mining sites by force (if trade with rebel groups is illegalized: in case of sanctions and the Kimberley Process). They do not address criminal activities and networks disguised in legally recognized entities such as the company Mbada in Zimbabwe's Marange diamond field (See presentation of Richard Saunders, Panel II). They do not address grievances that prepare the breeding ground for further rebellions and violent conflict (as mentioned earlier), where people's entitlements to benefit from their country's natural resources are disregarded. If the European Union is serious about its commitment to democratic governance, it cannot allow itself to ignore the aspect of democratic participation and economic beneficiation of communities living in resource-rich regions of the world.

So, what has worked with civil society initiatives and what didn't? Fatal transactions' involvement in multi-stakeholder initiatives like the Kimberley Process continues to be a viable strategy to arrive at common solutions. The experience has shown, however, that it was easier to achieve results in approaches that build on legality: the Kimberley Process has been successful in establishing legal systems and procedures in participants' countries to trace diamonds from the point of extraction to the point of export. It has been much more difficult to effectively push for improvements in the area of development (artisanal mining) and regarding human rights violations by governments that go beyond the narrow definition of conflict diamonds as defined by the Kimberley Process.

The area of capacity building for African NGOs in the extractive sector is one field of engagement that has worked well in the past and that Fatal Transactions will pursue further in the future. The training for NGOs in Central Africa on the assessment of environmental impact assessments and strategies of dealing with mining companies done by some of our members has achieved some change of behaviour on the ground. Here, limited financial means have sometimes constrained our actions. Moreover, civil society's action cannot substitute for an appropriate national and international regulatory framework.

In this context, it is our conviction that if the EU deals in raw materials sources from parts of the world that are politically or economically unstable, this implicates responsibilities and duties for the EU. Therefore, Fatal Transactions deems that action by the EU is needed in the following areas:

Firstly, the EU should have domestic rules for commercial engagement, that is a regulatory framework that stimulates companies to operate in due diligence to and respect of human rights, including conditions for financing by the European Investment Bank, for subsidies and export credits; including certain social and environmental standards for company operations abroad; including transparency regulations in operations abroad disclosing the origins of natural resources, revenues and royalties paid, similar to the recently adopted Dodd Frank-Act in the US.

Secondly, the EU needs to convey more active support to multi-stakeholder initiatives that go beyond issues of legality but touch upon the conditions of production, such as the IRMA (Initiative for Responsible Mining Assurance) and reform initiatives within the Kimberley Process that disallow the certification of grave human rights abuses by security forces of any kind.

Thirdly, the EU and its members states must do more 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; for example, by supporting African governments in (re)negotiating mining contracts that clearly define fair benefits to the state and minimize the negative impacts on the environment and the rights of people. 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.

Ultimately, the sustainable extraction and exploitation of raw materials in producing countries is a crucial determinant of the secure supply of raw materials to the EU and is therefore in the EU's own interest.