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Conflict timber and the EU's FLEGT programme: the case of Central African Republic

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Global Witness is a Nobel Peace Prize-nominated NGO that has, for twenty years, investigated the links between conflict, corruption and natural resource exploitation across the world.

We've been investigating conflict timber since we started twenty years ago, from Cambodia and Myanmar, to Liberia and now Central African Republic (CAR). CAR – one of the first signatories of the EU's Voluntary Partnership Agreements – and a country in conflict since at least December 2012.

Next week will be two years since the coup d'état in which CAR's government was overthrown by an armed group called Seleka. CAR remains volatile, with yet another fragile ceasefire last month not achieving the end to violence that was hoped for. The country is effectively partitioned and overrun by armed groups – with Seleka in the North and East of the country, Anti-Balaka militia present in the South and West and incursions from the Lord's Resistance Army into the East.¹ The government has no control over its territory despite the presence of international peacekeeping forces. The UN's Commission of Enquiry, which presented its final report last December, was unable to undertake any missions to the central part of the country throughout last year due to high security risks.²

The country houses part of the world's second largest rainforest in the Congo Basin. Timber is officially the country's number one export.³

As you know, the EU and the former government led by President François Bozizé signed a Voluntary Partnership Agreement (VPA) on 28 November 2011. Just one meeting of the

¹ See map, p.125 Final report of the International Commission of Inquiry on the Central African Republic, 22 December 2014 http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s_2014_928.pdf

² Ibid, p6

³ Lescuyer et al. (2014). Le marché domestique du sciage artisanal en République Centrafricaine : État des lieux, opportunités et défis. Document de travail, p. CIFOR :

joint implementation committee had been held before the violent coup d'état, which installed Seleka's leader, Michel Djotodia, as President.

Immediately after the coup, the EU's High Representative Catherine Ashton declared that "violent or unconstitutional changes of Government remain unacceptable"⁴. Other members of the international community were also swift to condemn the coup. **And while the EU did not venture to organise any joint VPA committee meetings with the new rebel government, it did not suspend or cancel the agreement, and it stayed silent on the serious risk that the logging industry might contribute to financing the Seleka regime and its war effort.** This despite the fact, as we know from many previous cases, **conflict timber often heightens or prolongs existing crises, because a conflict's duration depends partly on the financial viability of armed groups.**⁵

Meanwhile, Seleka committed human rights violations against the Central African people in a « concerted, planned, systematic and methodical manner » according to a non-disclosed version of a United Nations report.⁶ The International Federation for human rights found Seleka rebels were « responsible for killings, assassinations, kidnappings, arbitrary arrests and detentions, ill-treatment and torture, sexual crimes and the forced recruitment of children.⁷

The risk of conflict finance from the diamonds trade was taken seriously, albeit not immediately. CAR, which had traded 59 million Euros worth of diamonds in 2012,⁸ was suspended from the Kimberley process in May 2013. Efforts were made to shut down the trade. Belgian authorities seized Central African diamonds in Antwerp in May 2014.⁹

But timber did not receive the same treatment, even though it's a much easier commodity to track and regulate. Global Witness can reveal that CAR's timber trade has continued unabated in a context of violent conflict and utter lawlessness in the forested South-West of the country. **European companies have continued to offer CAR timber for sale and to place it on the EU market, which Global Witness believes violates the EU's Timber Regulation (EUTR) since it entered into force three weeks before the coup d'état on 3 March 2013.**

Millions of euros were paid by logging companies to the Seleka regime and its armed men following the coup. This includes a single 381,000 EUR payment by the principle timber

⁴ http://www.consilium.europa.eu/uedocs/cms_Data/docs/pressdata/EN/foraff/136506.pdf

⁵ http://pdf.usaid.gov/pdf_docs/PNADE290.pdf

⁶ Draft 1, confidential summary of the Commission of enquiry Preliminary Report of the International Commission of Inquiry for the Central African Republic to the UN Security Council, May 2014.

⁷ Rapport (septembre 2013). République Centrafricaine : un pays aux mains des criminels de guerre de la Séléka. FIDH.

⁸ <http://www.kimberleyprocess.com/en/central-african-republic>

⁹ Report by UN Panel of Experts established pursuant to Security Council resolution 2127 (2013), October 2014, p3: "In May 2014, Belgian authorities seized 6,634 carats that had been sent through Kinshasa and then Dubai to a company based in Antwerp, Belgium, called Kardiam. Kardiam is the Belgian branch of the Central African diamond-trading company Badica."

exporter, SEFCA, to the Seleka government¹⁰, and payments amounting to hundreds of thousands of euros made to Seleka armed units, for promises to protect logging sites and company offices from pillaging, and at illegal checkpoints along roads.¹¹

No controls of the state's budgetary expenditure were made during Seleka's reign of fear, three-quarters of it described as "security" spending, according to International Crisis Group¹². One of the leaders of the Seleka movement, General Mohamed Dhaffane, Minister of Forests, was sacked in June 2013 for recruiting mercenaries, buying arms and personally enriching himself by taxing logging companies.¹³ He was replaced by the nephew to the rebel President Michel Djotodia.

Together, industrial logging companies exported about 190.000 m3 of logs or sawnwood between January and December 2013, comparable to volumes exported in previous years.

And since the fall of Djotodia in January 2014 and the retreat of Seleka to the North and East of the country, logging companies – through their transporters – have continued making payments, but to armed Anti-Balaka militia who roam the South-West forest region, and have established illegal checkpoints on routes out of the country.¹⁴ On one of these routes alone, between the capital Bangui and Berbérati, there were more than 20 illegal

¹⁰ "Convention d'avance de trésorerie", signed by Ibrahim Fakhoury, Deputy Director General of SEFCA, 6 May 2013.

¹¹ Report of the UN Panel of Experts, July 2014, p 75: "Logging trucks operating between concession areas and Cameroon were systematically subjected to illegal tax levying during the Seleka's time in power. Illegal taxes levied by Seleka forces at checkpoints along transport routes within CAR amounted to about 70 USD per truck. Calculating from an average monthly export volume in 2013 of 15,000 m3 and an average load of 30-40 m3 per truck, per month Seleka would have fetched 30,000 USD of revenues per month from the timber industry. In addition some logging companies paid Seleka commanders protection money of up to 6,000 USD per month for their facilities in Bangui." Global Witness estimates on the basis of evidence we have gathered that payments were much higher.

¹² "The Central African Crisis: From Predation to Stabilisation", International Crisis Group, 17 June 2014, p5: <http://www.crisisgroup.org/~media/Files/africa/central-africa/central-african-republic/219-la-crise-centrafricaine-de-la-predation-a-la-stabilisation-english.pdf>

¹³ Announcement by the Minister of Communication Christophe Gazam Betty, 13 June 2013, reported by international French and African press: <http://www.rfi.fr/afrique/20130630-rca-dhaffane-limogeage-general-mohamed-ministre-haut-responsable-seleka/>; <http://www.afriquinfos.com/articles/2013/6/30/centrafrique-arrestation-ministre-detat-eaux-for%C3%AAts-accuse-recruter-mercenaires-224854.asp>

¹⁴ Report of the UN Panel of Experts report, July 2014, p 75: "Since the departure of Seleka forces from the southwest of the CAR at the end of January 2014, illegal taxation of logging trucks by armed forces reduced. However, anti-Balaka forces also demand payments haphazardly at checkpoints. The Panel confirmed the presence of anti-Balaka forces under commander Afred Yekatom "Rombhot", alongside the Gendarmerie, at Pissa, Mbaiki and Boda in Lobaye province, where trucks to practically all forestry concessions pass coming from Bangui. Rombhot's soldiers levy up between 2 and 10 USD on each truck at the three checkpoints. In addition, a forester told the Panel that within his concessions local unidentified anti-Balaka youths occasionally steal chainsaws and petrol for sale."

anti-Balaka barriers during the course of 2014, a militia chief telling journalists that it was their only source of income¹⁵.

Is this timber illegal as well as a source of conflict finance?

Conflict timber is by definition illegal if the sale of timber is funding the commission of serious violations of human rights, violations of international humanitarian law or violations amounting to crimes under international law, regardless of logging practices and permits. **This needs proper investigation in CAR. Furthermore, Global Witness has gathered a substantial amount of testimony that CAR's government has not carried out any proper controls of industrial logging operations for many years if ever. This is not surprising as CAR has previously been described as a "phantom state", a country without any real institutional capacity.¹⁶**

In fact, the Ministry of Forests, already weak, was pillaged and entirely deprived of its archives thanks to Seleka in 2013. **Although information is hard to come by in such a context, all available evidence points to illegal logging practices in the industrial logging sector.** Some sources tell us these have got worse since the beginning of the conflict.

And yet Europe's importers think there's no risk that this timber is illegal and the conflict over the past two years hasn't been any cause for concern: neither the European Commission nor competent authorities responsible for the EUTR have disabused them of this view. **It's been business as usual and a lot of money has been made during this war.**

In the meantime, many thousands of people have died in CAR – in such profoundly disturbing and chaotic circumstances that the UN's Commission of enquiry cannot accurately give a number.¹⁷

European companies are trading this timber – placing it on the European market and selling it onto China. One of these European companies is half-owned by the Lebanese proprietors

¹⁵ Article by the Network of human rights journalists of CAR, 11 June 2014: "Berberati : Anti-Balaka multiply illegal barriers on the Bangui-Berberati route: <http://m.rjdh-rca.net/actulites/actualite/berberati-les-anti-balaka-multipliant-des-barrieres-illegales-sur-l-axe-bangui-berberati.html?version=mobile>

¹⁶ République Centrafricaine : Anatomie d'un Etat fantôme. Rapport Afrique. N°136: [http://www.crisisgroup.org/~media/Files/africa/central-africa/central-african-republic/French%20translations/Central%20African%20Republic%20Anatomy%20of%20a%20Phantom%20State%20French.pdf](http://www.crisisgroup.org/~/media/Files/africa/central-africa/central-african-republic/French%20translations/Central%20African%20Republic%20Anatomy%20of%20a%20Phantom%20State%20French.pdf). It is close to being a failed state according to United Nations officials: in August 2013, Under-Secretary-General for Humanitarian Affairs Valerie Amos warned in her briefing to the Security Council, "The Central African Republic is not yet a failed State but has the potential to become one if swift action is not taken,": http://www.un.org/apps/news/story.asp?NewsID=45621#.VPzAK_msWSo; "a failed State headed by a fragile transitional Government" that was powerless to bring the country out of the crisis, the Security Council heard in November 2013, from a senior official of the Economic Community of Central African States (ECCAS): <http://www.un.org/press/en/2013/sc11188.doc.htm>; and CAR is on the 2015 Harmonized List of Fragile Situations: <http://siteresources.worldbank.org/EXTLICUS/Resources/511777-1269623894864/FY15FragileSituationList.pdf>

¹⁷ Final report of the International Commission of Inquiry on the Central African Republic, 22 December 2014 http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s_2014_928.pdf

of CAR's main logging company SEFCA, making the trade all the more profitable for the country's biggest logger. **And while they profit, justice is not served.**

But SEFCA claims to be a victim itself as it lost several vehicles during the upheavals. It says it hosted the Seleka regime's forces as well as international peacekeepers for security reasons. And it has also reassured the trader, which SEFCA's owners part-own, that the timber is legal.

Central African Republic is the first major conflict timber case in a VPA country, and it highlights the utter absence of any effective EU strategy to deal with risks of the timber trade financing conflict.

There are many proposed definitions of conflict timber. Put simply, as this case highlights, **conflict timber comes about where conflict is financed or sustained through the harvest and sale of timber.**¹⁸ And it can also come about where conflict emerges as a result of competition over timber or other forest resources.¹⁹

It is deeply regrettable that despite the increased recognition given to the phenomenon - thanks to high profile cases over the past twenty years – conflict timber can still emerge in a country in which the EU and other major international donors are so engaged in the forest sector, and have committed boots to the ground to quell conflict.

The EU is going to have to learn by doing, because the case in Central African Republic is ongoing.

The EU needs to adopt a clear framework of action on conflict timber. The aim should first be to prevent it, but if it's too late, if it's happened despite all the safeguards in place, then firm action must be taken at the EU and international levels to stop it and **hold those responsible for financing conflict accountable.**

What should the EU consider in such a framework for action?

- **Lessons learned from past conflicts**, including the general rule that in fragile, conflict-affected states, exploiting and trading timber before stability, peace and good governance are in place undermines development and threatens the stabilisation process. The UN Security Council saw fit to sanction timber in Liberia and Cambodia; and those sanctions were maintained in Liberia for several years after the end of the war as there needed to be serious infrastructure in place before logging could recommence. Liberia's post-war President Sirleaf ruled all logging concessions, which had operated during the Taylor regime and had gone through the semblance of tenders, as illegal: none of them had complied with the law. **The EU**

¹⁸ "Conflict Timber: Dimensions of the Problem in Asia and Africa, Volume I, Synthesis Report", Final Report Submitted to the United States Agency for International Development:

http://pdf.usaid.gov/pdf_docs/PNACT462.pdf

¹⁹ ibid

should advocate for the international community and the UN to examine risks of timber financing conflict in forest-rich, conflict-affected countries. This means ensuring it is addressed by UN-mandated bodies and panels of experts in at-risk countries like CAR from the outset.

- In cases where it has a Voluntary Partnership Agreements in place, the EU has a leading role on matters relating to logging and the timber trade with respect to other donors. It therefore has a special responsibility to act:
 - In countries at risk of conflict, conflict timber needs to be explicitly addressed in negotiations of any agreement and in implementation. (This was not the case in CAR despite the numerous coup d'états and conflicts in its history).
 - Where there is an illegal coup d'état and the EU's legitimate government counterpart has been ousted, it would be logical for the EU to formally suspend the VPA agreement, rather than simply refrain from holding meetings.
 - Where possible, and given the EU's specific expertise in VPA countries, the EU should assist UN-mandated bodies to monitor and investigate links between the timber industry, related trade and conflict.
 - **The EU should support the adoption of sanctions, where appropriate, and accountability mechanisms to bring financiers of conflict to justice.** The continuing implementation of a VPA may be incompatible with this where the private sector stands accused of financing conflict as in CAR. It is unacceptable that the EU should invite companies like SEFCA as stakeholders when they should be brought to justice. Does the EU truly believe that a VPA committee is the forum in which to assess conflict finance and any related abuses of human rights and international law?
 - **The European Commission should alert competent authorities responsible for the EUTR of conflict which increases the illegality risks of timber or derived products placed on the EU market. The European Commission could usefully issue guidance on this question.** If armed groups are active in areas where logging is taking place, it will most likely be impossible to mitigate risks of illegality. If a government has been installed unconstitutionally, it has no legal authority to issue logging permits or documents. In such circumstances, the placing on the market of timber or derived products from such a country should not be allowed and importers must be sanctioned. That's how the EU can use an existing instrument to **break the links between trade and conflict.**
 - **The European Commission should examine in much closer detail how existing instruments could prevent the trading of conflict timber; if they are inadequate, then they should be adapted or new instruments should be devised.** For any trade, the onus should be placed on logging companies and traders to show that no part of the supply chain is financing conflict.

- The EU's dialogue with China and other major timber processing nations, like Vietnam, should explicitly address conflict timber. Our understanding is that much timber from CAR is processed in China and re-exported to Europe and the US. This triangular trade relationship must be addressed.
- **In relation to intra-country competition over forest resources, which may be another cause of conflict (and characterise timber as a conflict resource):**
 - Voluntary Partnership Agreements should not be signed without prior consultation with affected communities. In CAR, no real consultation took place of forest communities according to civil society organisations.²⁰ Do they even want a trade in timber from their areas? Does the EU actually know? There is an assumption that the timber trade delivers development benefits. CAR – where export-oriented industrial logging has been taking place for decades and remains the poorest country on earth - reveals the fallacy behind this assumption. As two Central African parliamentarians recently stated in the local press: “since independence, logging by different, generally foreign owned companies, and the fight for control of our various national riches, have resulted only in the destruction of the ecosystem and the continued degradation of the living standards of our people”.²¹ Conflicts are likely to increase as forests become more degraded and climate change worsens; CAR is no exception. **The VPA does not appear to be adapted to its context or likely to succeed in its objectives. The EU should examine ways of promoting development without destruction in fragile, conflict-affected states like CAR, starting with support for those most likely to provide long-term, sustainable stewardship of forests and to sustain improvements in livelihoods: the forest communities themselves.**

The European Union as the world's biggest development donor and a leading player in forest-rich countries could and should make real inroads into tackling the phenomenon of conflict timber. But, as the latest case in CAR shows, it needs to adopt a clear framework of action to do so.

²⁰ « LES PROCESSUS NATIONAUX REDD+ ET APV/FLEGT : Enjeux et perspective pour la participation et les droits des communautés forestières », Bienvenu Florentin KEMANDA YOGO, Jean Jacques MATHAMALE, Saint Jérôme SITAMON, 24-26 septembre 2013 :

<http://loggingoff.info/sites/loggingoff.info/files/ACRN%202013%20Pr%C3%A9sentation06%20RCA.pptx>

²¹ « Pourquoi les Conseillers nationaux ne prendront pas part à la cérémonie d'abattage du premier arbre par TIMBERLAND INDUSTRIES à Nola! », Paulin Pomodimo et M'Pokomandji Sonny, Citoyen N°4522 du 5 mars 2015.