

INTERNATIONAL RESPONSE TO THE ILLEGAL EXPLOITATION OF RESOURCES IN THE DRC

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Introduction

The exploitation of natural resources can probably be considered one of the single most important issues for the future of the Democratic Republic of the Congo (DRC). The exploitation of resources (such as rubber, copper, zinc, uranium, gold, tantalite, timber, etc.), has, directly or indirectly, shaped the historical experience of the country and its relations with the western world for the past hundred years. Belgian colonisation, from King Leopold to the Belgian State, was primarily driven by extractive activities. Similarly, the Congo's post-colonial history was greatly influenced by the eastern and western blocs' strategic interests in its resources. Thus the uranium used for Hiroshima's nuclear bomb came from Shinkolobwe in Katanga. For almost thirty years, Mobutu Sese Seko excelled in manipulating the east/west rivalry and used western interests in the Congo's resources to consolidate his own rule, to the detriment of the Congolese population.

However, this situation has radically changed in the past fifteen years. The exploitation of resources remains crucial, and the country remains a "geological scandal", while its resources continue to play a determining role in its future, and will probably do so for a long time to come. But today the exploitation is not controlled by western strategic interests. After the end of the Cold War, not only did Congolese resources lose their strategic political value, but the costs associated with their exploitation (deteriorated extractive capacity, corruption, political risks) also reduced their basic economic value.

It was therefore no surprise to see only minor companies, often unlisted on any stock exchange, trying to sign contracts with rebel leader Laurent-Désiré Kabila in Lubumbashi on the eve of Kinshasa's collapse and surrender to the *Alliance des Forces Démocratiques de Libération de Congo* (AFDL, Allied Forces for Democratic Liberation of the Congo) in 1997. The mining majors, for example, which are often closely associated with western powers' strategic interests, were not involved. The contracts signed were often guided by speculative interests and did not represent long-term foreign investments, or

investments at all for that matter. Their purpose was to gain the political favour of the new regime. Laurent-Désiré Kabila's association with North Korea, Cuba, Iran or Libya admittedly gave western powers temporary cause for concern: the Congo might at some point help these countries access the strategic minerals needed to develop their military capacities. Yet, the threat was never significant enough for them to take any action against it.

Except for a limited number of very specific commodities (such as diamonds), the DRC has become a country of small businesses with no real strategic value. Its annual GDP is smaller than the annual turnover of the smallest European or South African multinational corporations. Its resources are only important for the Congo itself and for its African neighbours. At the peak of the Coltan fever in 2001, credible estimates of the profits made from its exploitation by Rwanda and the DRC over one year did not exceed USD 100 million. This is a significant amount of money for the DRC and for the budget of the oversized Rwandan army, but it represents less than 20%, for instance, of the amount donated annually by billionaire George Soros through the Open Society Institute network and other charities.

This reality puts into perspective ongoing arguments put forward about the exploitation of resources in the Congo, such as that the Congo is the victim of western interests and that ultimately Rwanda and Uganda are the new expression of the United States' continued strategic investment to control the future of the country. This is no longer true. The Congo is, in fact, the victim of a lack of interest on the part of western countries, and of the United States (US) in particular. Western economic investments or interests in the Congo's resources are not guided by political considerations, and depend today on basic cost/benefit strategic analysis and/or on the availability of other global opportunities.

This is one of the key reasons why the international response to the illegal exploitation of resources in the DRC has failed to provide appropriate answers to this problem. This response in fact translated into one main initiative: the establishment of a United Nations (UN) panel of investigation destined to name, shame and ultimately sanction the culprits, while simultaneously proposing recommendations to legally regulate the exploitation of resources. The lack of genuine international interest in the Congo conflict facilitated the political manipulation of the UN panel by the French government, which was more interested in creating a tool to pressurise Rwanda and Uganda to accelerate their withdrawal from the Congolese territory than in finding long-term solutions to the illegal exploitation of resources *per se*. Once the panel had produced its intended political effect and the peace process had reached a certain stage of success (namely the withdrawal of foreign troops and the creation of a government of transition), it was instructed to wrap up and close shop.

Exploitation of resources ignored by the Lusaka agreement

The Lusaka ceasefire agreement had been a political victory for Rwanda, Uganda and their allies. Signed in August 1998 after a year of war, the Lusaka agreement made the withdrawal of foreign forces conditional upon the disarmament of the armed militias that were using the DRC territory to destabilise its neighbours, and imposed on Laurent-Désiré Kabila an Inter-Congolese Dialogue (ICD) involving, in addition to the official Congolese belligerents, unarmed opposition and civil society representatives. The ICD also implied the inclusion of the rebels within a government of transition in Kinshasa, leading to the establishment of “a new political dispensation for the Congo”. Militarily, Lusaka stopped the advance of the Rwanda and Uganda-supported rebel forces towards Mbuji-Mayi and effectively gave Laurent-Désiré Kabila a new lease of life. It simultaneously established the political and security justifications for the war advanced by Rwanda, Uganda and their rebel allies as the only legitimate framework for the peace process. Strongly supported by the US, the Lusaka agreement was reluctantly accepted by France and Belgium.

Economic interests and the exploitation of resources were thus considered irrelevant to the war, and the only chance for them to appear as an issue of negotiation would be within a national context, at the Inter-Congolese Dialogue. Rwanda and Uganda had succeeded in imposing their political and security agenda as the only legitimate entry point to the peace process and would never have to answer questions about their exploitation of the Congo's resources within the Lusaka framework. Moreover, while freezing the conventional war front and establishing a *de facto* partitioning of the Congo into three spheres of influence (Rwanda/RCD, Uganda/MLC², Zimbabwe–Angola/Kinshasa government), the Lusaka agreement legitimised the authority of the three Congolese belligerents to administer their respective areas of the country. Both the RCD and the MLC were therefore granted the legal authority to sign contracts and organise with whomever they wanted the exploitation of natural resources in their own part of the Congolese territory.

Such leeway gave Rwanda and Uganda full leverage to exploit and extract Congolese resources without restriction. If the Congo's resources had not been a determining factor in the beginning of the war, they certainly contributed to sustaining and prolonging it and gave the eastern belligerents the opportunity to drag their feet with the implementation of the peace process. In the absence of economic or financial pressure to prevent them from keeping their oversized armies deployed in the Congo, Rwanda and Uganda could easily remain inflexible. As President Kagame himself acknowledged, the Congo war was a self-financing war. It had no negative impact on the country's economic situation. On the contrary, since the resources to finance army opera-

tions in the Congo were raised in the Congo, Rwanda felt quite comfortable with sustaining an occupation which not only provided it with a security buffer zone but also covered a large part of its defence budget. As for Uganda, the Congo offered the rewards necessary for President Museveni to retain his generals' allegiance. The occupation of the Congo drained Uganda's defence budget, but the exploitation of the Congo's resources was a political guarantee that the army leadership would remain loyal to their commander-in-chief.

The French strike back

The illegal exploitation of resources became a central issue of the DRC peace process in June 2000, after the third battle between the Rwandan and Ugandan armies for control of the Kisangani diamond markets. The fighting between former allies³ who had so far justified their invasion of the Congo on security grounds appeared to be an eye-opener for the international community on what had been identified by Kinshasa as the real reasons for the war, namely the looting of the Congo's riches. In fact, the battle for Kisangani gave France a golden opportunity to place pressure on Rwanda and Uganda while undermining the credibility of the Lusaka agreement as the sole avenue for conflict resolution in the Great Lakes.

Soon after its first fact-finding mission to the Congo, the French government persuaded the UN Security Council (UNSC) to establish a panel of experts to investigate the illegal exploitation of natural resources and other forms of wealth from the DRC.⁴ The Council was simultaneously at loggerheads with the Rwanda-supported RCD over the demilitarisation of the town of Kisangani, and after the international outrage precipitated by the third battle for control of the town's diamonds, there was little the United Kingdom (UK) could do to oppose the French initiative. The new US administration of George W Bush had been in office for less than six months and had very little interest in Africa. Thus when it came to Africa, and the Congo in particular, the permanent members of the Council abandoned the lead to the French.

Officially, the panel was established to make operational recommendations to stop or regulate the exploitation of resources in the Congo. It was also and primarily conceived by the French government as a means of pressure on Rwanda and Uganda. The panel, led by an Ivorian national close to France, was given an unofficial mandate to prove that Rwanda and Uganda's true reason for invading the Congo was simple greed and that they had no legitimate security reasons for occupying the Congo. In fact, the panel was also to prove that both governments had colluded with their so-called enemies to exploit the Congo's resources. French intelligence services provided some information to the panel to back up that theory.⁵

The panel's first report, published in April 2001, diligently followed French instructions.⁶ First, it exempted the foreign forces invited by Laurent-Désiré Kabila (Zimbabwe, Angola, Namibia) from scrutiny, despite the use of force, abuse of human rights, theft of public assets, fraud and tax evasion in which they (the Zimbabwean military in particular), were actively involved. Only the exploitation of resources perpetrated by "uninvited" forces, namely the Rwanda and Uganda armies, was taken into account and documented. Second, the panel recommended the institution of sanctions against Rwanda and Uganda and named Presidents Kagame and Museveni and their families as direct beneficiaries of the exploitation of resources, but without providing the necessary evidence to validate these accusations.

The politicisation of the panel greatly undermined the probability that any of its recommendations would be implemented. The row that erupted within the Council before publication of the report led to intense negotiations for the editing of sections of it. Interestingly, no French or US companies were identified in the report as direct or indirect beneficiaries of the resource exploitation, and only African culprits were named and shamed. The British demanded further investigation by the panel so that this imbalance could be corrected and all foreign entities investigated. The Ivorian chair, Safiatou Ba N'daw, was removed and replaced by a seasoned UN ambassador, the Egyptian Mahmood Kassem, known for his remarkable work as chair of the UN panel on the violation of the international embargo on the supply of arms to the Congo in 1995 to 1996, and of the Organisation of Africa Unity committee of experts on the Rwandan genocide in 1997 to 1999. The addendum produced by the new panel documented and illustrated how Zimbabwe and its Congolese government associates had looted the country under cover of the war effort.⁷

The panel develops a life of its own

The panel's inability to have its recommendations implemented remained, to a certain extent, a side issue for the French government, which had achieved its aims of exerting pressure on Rwanda and Uganda and destroying their claim that their occupation of the DRC was motivated strictly by security concerns. The publication of the first panel report, however imperfect, had also created a chain reaction of international NGO research and documentation of Rwanda and Uganda's exploitation of resources, which helped keep the issue of exploitation of resources in the DRC on the international agenda and facilitated the renewal of the panel's mandate. The flow of publications detailing, analysing and documenting the exploitation of resources reinforced the legitimacy of the panel's work, despite the shortcomings of the reports themselves. However imperfect and politically motivated, the reports proved that the

exploitation of resources had become a central problem for the peace process in the DRC, which needed to be addressed one way or the other. Since the panel had also become a means of placing pressure on Zimbabwe, it brought a genuine contribution to the peace process. Its work was strongly supported by British-based NGOs and advertised by the British media, and accordingly it became difficult for the British government to oppose the renewal of its mandate.

The panel's reports also began to help the peace process move forward. The international outcry and public pressure they evoked against the belligerents repeatedly boosted negotiation efforts at the Inter-Congolese Dialogue (ICD). The preparatory meeting to the ICD took place in Gaborone just after the publication of the first report. By then it had already become impossible to avoid the issue, which was immediately registered on the official agenda for the talks. Unarmed political parties and civil society organisations wanted to use the exploitation of resources as a means of pressure on the belligerents in their power-sharing negotiations.

The addendum to the first panel report was published in November 2001, just after the collapse of the ICD's first meeting, which had been held in Addis Ababa. The Congolese government delegation had abruptly left the talks after contesting the identity and numbers of delegations. The publication of the panel's addendum put tremendous public pressure on the government, which was accused by the Congolese churches and media of having a stake in the continuation of the conflict. By January 2002, the ICD deadlock had been broken. The third report of the panel was published in October 2002, and named Ministers Augustin Katumba Mwanke and Mwenze Kongolo as being among those who, together with senior members of Zimbabwe's military forces, were directly involved in the rampant exploitation of Congolese diamonds.⁸ Their naming gave Joseph Kabila the pretext on which to suspend them from their positions. This very significantly boosted the last leg of the ICD negotiations, at which Katumba Mwanke and Mwenze Kongolo had taken hawkish positions and undermined the negotiation efforts. Rwanda also decided to remove its troops from the Congo just before the publication of the third panel report, thus avoiding the threat of sanctions.

In the end, however, the panel developed a life of its own and started to become a liability to Security Council members. In its October 2002 report, the panel took the initiative of naming and shaming the international corporations that were indirectly benefiting from the exploitation of resources, since they were part of the financing and marketing chain (banks receiving payments, transport companies delivering the minerals, multinational corporations buying DRC's minerals, etc.) that facilitated the illegal exploitation. The named companies threatened the UN with lawsuits. They demanded to be heard and to have a right of reply, while their member states put pressure on the Council

for the names of their national companies to be removed or the companies to be exonerated. In January 2003, the panel was mandated, for the last time, to report on the illegal exploitation of resources and, more especially, to hear the complaints of the companies and individuals named in its previous report and to review its list of culprits on the basis of stronger material evidence.

Simultaneously, the peace process had reached a stage where the naming and shaming of those who had become members of the newly-formed government of transition was considered by some members of the Council to be counter-productive. The panel was therefore informed that its January 2003 mandate would be the last and that it was time to wrap up.⁹ A means of political pressure had been created and used successfully, and was now terminated by the Security Council regardless of the short or long-term solutions found to deal with the problem of the illegal exploitation of the Congo's resources.

The political pressure provided by the UN panel unquestionably helped the Congo peace process. The moral high ground occupied by Rwanda and Uganda had to be questioned for the ICD to move forward and for these two countries to be forced to remove their troops from the DRC. The externalisation of their internal political problems at the expense of the Congolese population could no longer be accepted. However, the panel failed to establish successful measures to regulate the exploitation of resources. Ultimately the primary victims of the practice, the Congolese civilians, did not benefit directly from the work of the panel and there are no guarantees that the illegal exploitation will not continue under cover of the transition. There is also no guarantee that the International Conference for Peace and Stability in the Great Lakes, the other instrument created by the UNSC and mandated to deal with the economic agendas of the Congo war, will do so effectively.

The International Conference for Peace and Stability in the Great Lakes

The idea of an International Conference for Peace and Stability in the Great Lakes dates back to the first Congo war. The involvement of seven countries in what was often described as the first "African World War" obviously suggested the need for a regional conflict resolution mechanism that would, at the same time, promote regional integration as an economic stabilising factor for the states of the region. Initiated by France in 1996, the idea was regarded as politically motivated against Rwanda and Uganda, which would be put in a minority situation against Francophone and other states of the region. Moreover, the idea for an international conference did not gather political momentum until 2003.

Officially endorsed by UNSC resolutions 1291 and 1304 of 2000, the idea was left dormant with the Office of the UN Special Envoy for the Great Lakes, Berhanu Dinka. Rwanda and Uganda were hostile to the Conference and considered that it was a dangerous diversion from the peace process, which needed to stick to the primary cause of the conflict, namely their security concerns. It was also self-evident that the idea of such a Conference could not gather any momentum until the Burundi and Congo peace processes had reached an irreversible stage, and inclusive governments of transition had been established in both countries.

In June 2002, the UN Secretary-General transferred Ambassador Berhanu Dinka to Bujumbura to head the UN Office in Burundi, and appointed a new Special Representative of the Secretary-General (SRSG) to prepare the Conference, the former Senegalese Minister for Foreign Affairs, Ibrahima Fall. A year later, Ambassador Fall convened the first meeting of the Conference in Nairobi to discuss national focal points. The meeting elaborated a plan of action for the 18 months ahead. The Conference is to address four strategic themes (peace and security; democracy and good governance; humanitarian affairs; and regional economic integration) and deliver concrete mechanisms for supporting peace and stability in the Great Lakes. Six core countries are involved (Rwanda, Uganda, Burundi, DRC, Kenya and Tanzania), which are to establish national preparatory committees involving inter-ministerial consultations, gender mainstreaming and civil society representation to develop policy positions on the four themes. Key regional players such as Angola and South Africa are not involved in the core country groups but appear in a secondary circle. Similarly, donor countries and international financial institutions are only involved within a third circle of observers.

At this early stage, the organisers of the International Conference have given no indication that they will put the issue of illegal exploitation of resources on their agenda and the methodology adopted for the Conference is unlikely to allow it. Key culprit states will most definitely oppose it. Moreover, neither the UN nor the international community at large enjoys sufficient moral credibility to dictate to regional countries the inscription of the exploitation of resources on the agenda of the Conference. The publication of the last panel report was surrounded by controversy, as Security Council members rushed to exonerate their national companies of any wrongdoing and have their names removed from the public documents.¹⁰

Conclusions

The illegal exploitation of natural resources in the Congo is without a doubt a central issue for a peace-building strategy for the Great Lakes. Unfortunately,

members of the international community have never taken any decisive steps to stop it, or to promote the necessary national mechanisms that would guarantee good governance in the DRC. So far, not one of the UN panel recommendations has been implemented. Aid policy, in particular, has not been made conditional on accountability for Rwandan or Ugandan activities in the DRC. Neither Rwanda nor Uganda have seen the direct budget support delivered by the European Commission or the UK threatened because of their active involvement in the exploitation of resources in the DRC.

Congolese leaders themselves, who are the prime culprits, seem currently to be benefiting from a certain degree of immunity, officially for the political sake of the peace process. After the establishment of the government of transition, panel members were almost reprimanded for wanting to continue their investigations. This short-term political scheming is undermining the chances for long-term stability in the DRC. A return to the Mobutu years should not be encouraged and the strictest conditions should be established for the disbursement of international aid to the Congo to avoid the perpetuation of a regime of theft.

Yet, for the international community to take the moral high ground towards its African friends, it would need to exert maximum pressure on its own companies to at least respect the Organisation for Economic Cooperation and Development (OECD) guidelines on economic activities in conflict zones and develop its own legal framework for the prosecution of white collar crimes by its nationals in African countries. The regulation of resource exploitation in the Congo is a shared responsibility. It is for the Congolese themselves, their regional neighbours and their western friends to take their responsibilities and find the necessary partnership that will promote win-win economic situations in the region. Unfortunately, if donor countries refuse to take the lead in this respect and to establish more even-handed policies that will place the interests of the Great Lakes populations before those of their leaders, this is unlikely to take place.

Notes

1. Dr François Grignon is Project Director, Central Africa, International Crisis Group.
2. Congo Liberation Movement.
3. Namely the destabilisation of their respective countries by Kinshasa-sponsored Rwandan or Ugandan rebel groups (ex-FAR and Interahamwe, ADF).
4. Declaration of the UNSC president, 2 June 2000, S/PRST/2000/20.
5. Interview with panel members and French government officials, 2001.

6. UN Security Council "Report of the Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth in the Democratic Republic of Congo", S/2001/357, 12 April 2001.
7. UN Security Council "Addendum to the Report of the Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth in the Democratic Republic of Congo", S/2001/1072, 13 November 2001.
8. UN Security Council "Final Report of the Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth in the Democratic Republic of Congo", S/2002/1146.
9. Interviews, UN panel members, Nairobi, August 2003.
10. See D Walsh, UN cuts details of Western Profiteers from Congo report, *The Independent (UK)*, 27 October 2003.