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Part III

The governance of natural resources as part of conflict resolution and post-conflict peacebuilding efforts

INTRODUCTORY REMARKS TO PART III

This part discusses two distinct but interrelated issues. The first concerns the approaches to stopping the trade in natural resources that is used to finance armed conflicts. Addressing this issue is a prerequisite for resolving those armed conflicts. The second concerns the governance of natural resources in countries that are recovering from resource-related armed conflicts. While economic reconstruction must be an inherent part of any peacebuilding strategy, specific challenges must be addressed when natural resources play a role in armed conflicts, to either finance or sustain them. In these situations, it is often necessary to implement institutional changes regarding the governance of natural resources in order to prevent a relapse into armed conflict.

Notwithstanding the paramount importance of addressing natural resources governance as part of peacebuilding efforts, this issue has not been included in the official mandate of the UN Peacebuilding Commission, an intergovernmental advisory body established in 2005 by the UN Security Council, together with the UN General Assembly. The principal objective of the UN Peacebuilding Commission is “to address the special needs of countries emerging from conflict towards recovery, reintegration and reconstruction and to assist them in laying the foundation for sustainable development”.¹ As part of its general mandate, the UN Peacebuilding Commission has recently started to consider issues related to natural resources management, both in a general sense and

1 UN Security Council Resolution 1645 (2005), preambular paragraph 6; UN General Assembly Resolution 60/180 (2005), sixth preambular paragraph. For this purpose, the UN Peacebuilding Commission has received three main tasks: 1) to bring together all relevant actors to marshal resources and to advise on and propose integrated strategies for post conflict peacebuilding and recovery; 2) to focus attention on the reconstruction and institution-building efforts necessary for recovery from conflict and to support the development of integrated strategies in order to lay the foundation for sustainable development; and 3) to provide recommendations and information to improve the coordination of all relevant actors within and outside the United Nations, to develop best practices, to help to ensure predictable financing for early recovery activities and to extend the period of attention given by the international community to postconflict recovery.

in its country specific configurations.² However, the practice of the UN Peacebuilding Commission is still limited, preventing a systematic analysis of its work in this field. Furthermore, the UN Peacebuilding Commission becomes involved in a relatively late stage, when the situation in a former conflict country has, to a certain extent, stabilised. It is submitted that, in order to enhance the success of the peace process in countries emerging from armed conflict, changes in the governance of natural resources must be initiated already in the phases of conflict resolution and immediate post-conflict reconstruction, which is the principal focus of this part of the study.

Recent attempts to address the governance of natural resources, and, as a prerequisite, the trade in natural resources that finance armed conflicts as part of conflict resolution and immediate post-conflict reconstruction efforts have evolved around two distinctive but interrelated approaches, namely sanctions by the Security Council under Chapter VII of the United Nations Charter on the one hand, and voluntary agreements between States and other entities related to the management of natural resources in States experiencing an armed conflict, on the other.

The United Nations Charter has assigned the Security Council the primary responsibility for maintaining international peace and security.³ It has given the Security Council a wide range of powers to perform its functions effectively. In this respect the principal powers of the Security Council relate to its role in the pacific settlement of disputes under Chapter VI of the UN Charter and its authority to adopt coercive measures in response to threats to the peace, breaches of the peace, and acts of aggression under Chapter VII of the UN Charter. Together these chapters assign the Security Council a variety of options to effectively address specific situations which constitute a threat to international peace and security.

In practice, resource-related economic measures under Article 41 of the UN Charter have been the principal means used by the Security Council to

2 The need for the UN Peacebuilding Commission to address these issues was emphasised in a 2009 UNEP report, entitled 'From Conflict to Peacebuilding: The Role of Natural Resources and the Environment'. The UNEP Report further contains a number of recommendations for the Peacebuilding Commission on the integration of natural resources management and environmental protection into its peacebuilding strategies. In response to the UNEP report, the UN Peacebuilding's Working Group on Lessons Learned has issued a background paper in July 2011 on 'Economic Revitalization and Youth Employment for Peacebuilding', identifying natural resources management as one of the priority areas for the Peacebuilding Commission to focus on in the near future. This background paper expanded on preliminary work undertaken by this Working Group in cooperation with UNEP on 'Environment, Conflict and Peacebuilding'. Nonetheless, the proposals of the Working Group have not yet been adopted as part of the overall strategy of the Peacebuilding Commission.

3 The legal basis for this function of the Security Council may be found in Article 24 of the UN Charter.

address the links between natural resources and armed conflict.⁴ Before the end of the Cold War, the Council only used its powers under Chapter VII once to impose resource-related coercive measures aimed at ending a conflict, namely in the case of natural resources originating in Southern Rhodesia.⁵ Since 1990 the Council has increasingly used its powers for this purpose. Examples include diamond sanctions in the cases of Angola, Sierra Leone, Liberia and Côte d'Ivoire, petroleum sanctions in the case of Iraq and timber sanctions in the case of Liberia.⁶ This practice of the Security Council reveals the recent trend towards "smart" or "targeted" rather than comprehensive sanctions.⁷

In addition, voluntary agreements between States and other entities related to the management of natural resources in fragile States have become more important in the last decade, both as an alternative and complementary to Security Council sanctions. The objective of some of these voluntary agreements is to address the trade in so-called "conflict resources", while others address management-related issues. Examples of the former include certification mechanisms, such as the Kimberley Scheme for the Certification of Rough Diamonds. Examples of the latter include voluntary processes aimed at combatting corruption in government administration, such as the Extractive Industry Transparency Initiative.

These voluntary agreements are part of a broader movement away from formal treaty-making procedures to informal processes that create "commitments" rather than legal obligations for States. These processes are even encouraged by formal institutions. The 2002 Johannesburg Summit on Sustainable Development, for example, introduced the idea of partnerships between States and private entities for sustainable development. The United Nations Conference on Sustainable Development held in Rio de Janeiro in 2012 further consolidated this practice of public-private partnerships with the organization of a "Partnerships Forum" and encouraged the establishment

4 See P. Le Billon, 'Natural Resources, Armed Conflicts, and the UN Security Council', Liu Institute for Global Issues, Briefing Paper No. 07-001, 30 May 2007, p. 2. Other tools include peacekeeping missions. The Security Council has, so far, only in two instances expressly included issues related to natural resources management in the mandate of a peacekeeping mission. These are the UN Mission in Liberia (UNMIL) and the UN Organization Stabilization Mission in the Democratic Republic of the Congo (MONUSCO). For more details on these and other peacekeeping missions, see a recent report issued by UNEP, 'Greening the Blue Helmets: Environment, Natural Resources and UN Peacekeeping Operations' (2012).

5 See UN Security Council Resolution 232 (1966) concerning an import ban on certain natural resources, including iron ore and copper and Resolution 253 (1968) concerning an import ban on all commodities and products.

6 See, e.g., UN Security Council Resolution 1173 (1998) concerning an import ban on diamonds originating in Angola; Resolution 1306 (2000) concerning an import ban on diamonds originating in Sierra Leone and Resolution 1521 (2003) concerning an import ban on diamonds and timber products from Liberia.

7 D. Cortright & G.A. Lopez (ed.), *Smart Sanctions: Targeting Economic Statecraft*, Lanham: Rowman & Littlefield (2002).

of new partnerships.⁸ In other areas, informal processes are also becoming more important, for example, global standards for the registration of drugs are developed through the International Conference on Harmonisation of Technical Requirements for Registration of Pharmaceuticals for Human Use (ICH), an informal organization that brings together regulatory authorities and the pharmaceutical industry.

The phenomenon of informal agreements can partly be explained by a genuine desire of States to actively involve other stakeholders, principally civil society and the private sector, in efforts to address issues of general concern. However, the question arises whether these initiatives are in fact as effective as formal treaty processes in addressing issues of general concern. Since voluntary initiatives increasingly replace formal treaty-making processes, it is important to determine whether these voluntary initiatives actually provide a credible alternative to treaties.

Chapter 7 examines sanctions regimes adopted by the Security Council to stop natural resources from financing or fuelling armed conflicts. The chapter discusses the contribution of these sanctions to conflict resolution and, ultimately, post-conflict peacebuilding. Chapter 8 examines three categories of informal instruments. These are certification mechanisms, anti-corruption initiatives and corporate responsibility tools. Each category is discussed from the perspective of one instrument which is of particular interest for the purposes of this study.

One question that is central to both chapters concerns the ways in which these mechanisms contribute to providing structural solutions for preventing future conflicts involving natural resources in States that have experienced armed conflicts. Throughout this book it has been argued that the issue of resource governance is of central importance to prevent conflicts involving natural resources. In other words, the question is how and to what extent these mechanisms contribute to promoting adequate resource governance in countries that have experienced armed conflict. And what does 'adequate' resource governance mean within this context?

Of course, the current book can only give a glimpse into the enormous range of initiatives that – directly or indirectly – contribute to breaking the link between natural resources and armed conflict. The purpose of this book is not to give an exhaustive summary of all the initiatives, but rather to provide insight into the contribution of those approaches that have been at the forefront of efforts to break the link between natural resources and armed conflict.

8 See UN General Assembly Resolution 66/288, 'The Future We Want', of 11 September 2012, paras. 46, 64, 71, 76, 202 and 269-275.