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FIRST, DO NO HARM: FIVE QUESTIONS THE EU NEEDS TO KEEP IN MIND FOR A SENSITIVE APPROACH TO CONFLICT RESOURCES

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HIGHLIGHTS

The European Union acknowledges that when sanctions against resource-fuelled armed confrontations are not conflict sensitive, they can potentially exacerbate violence and instability on the ground.

In many conflicts, sanctions are difficult to enforce due to limited state presence and rampant corruption in the affected regions. The question to ask is, therefore, how can the trade in conflict resources be effectively stop, and what is the expected impact (and the real one) of such a restrictive measure.

There are five criteria the EU should keep in mind when taking policy decisions against conflict resources: (I) the relevance of those resources for the conflict dynamics; (II) how effective and (III) efficient this policy can be; (IV) what (unexpected) impacts it can have on the ground; and, finally (V) how sustainable it is.

Implementing restrictive measures in isolation is not a silver bullet to end resource-fuelled conflicts and neither effective nor efficient.

In numerous armed conflicts, natural resources provide a source of funding for the involved parties. In Syria and Iraq, the so-called Islamic State (IS) gained control over oil wells and sold their production on the black market in the region. In the Democratic Republic of the Congo (DRC), armed groups 'tax' artisanal miners of gold and minerals and set up road blocks where transporters have to pay a fee. In Nigeria, oil companies had to pay ransom to armed groups to ensure the safety of their workers and pipelines. Such natural resources are often described as conflict resources, which have been defined by the NGO **Global Witness** as "natural resources whose systematic exploitation and trade in a context of conflict contribute to, benefit from, or result in the commission of serious violations of human rights, violations of international humanitarian law, or violations amounting to crimes under international law".

Since the early 1990s, and inspired by cases of 'blood diamonds' from Africa, the EU has adopted policies concerning conflict resources. In the most recent major policy strategy document, the **2016 Global Strategy for the EU's Foreign and Security Policy**, a special section was devoted to the 'political economy of peace' to state that "to fight the criminal war economy, the EU must also modernize its policy on export control for dual-use goods, and fight the illegal trafficking of cultural goods and natural resources". The predominant policy response to cases of conflict resources has been sanctions (or 'restrictive measures', as the EU calls them). A recent trend is supply chain due diligence measures that oblige importers to ensure that the natural resources they use comply with certain social and environmental minimum standards (e.g. the **2017 EU Conflict Minerals Regulation**, which will be discussed in more detail below).

For the EU, the challenge lies in fitting these measures in its conflict sensitive approach to crisis situations. This means, as EuropeAid specifies for example in a [handbook for staff operating in situations of conflict and fragility](#), that any intervention should take the context into account to make sure that it improves the situation instead of making things even worse. As the EU acknowledges in this handbook, when sanctions are not conflict sensitive, they can “potentially exacerbate conflict and instability”. But, under what conditions these undesired effects may happen? After examining the EU’s activities in this area, I draw a ‘checklist’ of five criteria to look at when deciding about policy measures against specific conflict resources.

What has the eu done so far?'

In his [work on conflict resources](#), Philippe LeBillon argues that there are three options for policymakers to respond to cases of conflict resources. First, they can try to make them economically worthless by sanctions or similar policies. A second option is to neutralize their effect by using military means to destroy them or to get them out of the hands of the armed groups. And, finally, the third possibility is to promise the warring parties

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large economic benefits with the natural resource trade when the war ends.

The EU has opted almost always for the first option. Nonetheless, it is worth mentioning that some EU military operations include provisions to deal with the illegal trafficking of conflict resources. [EU SOPHIA's mandate](#) in the Mediterranean Sea includes for example the task to “conduct surveillance activities and gather information on illegal trafficking, including information on crude oil and other illegal exports that are contrary to UNSCR 2146 (2014) and UNSCR 2362 (2017)” against Libyan armed groups. Some EU Member States have also participated in the US-led air strikes campaign against IS-controlled oil installations. However, so far the EU has not proactively destroyed production sites of conflict resources as part of EU military missions. There are also no known cases in which the EU used the revenues of conflict resources as an incentive to get belligerents at the negotiation table or to sign a peace agreement.

Most of the EU’s restrictive measures against conflict sanctions are implementations of United Nations (UN) sanctions. In the age of ‘smart sanctions’, these policies rarely target the entire natural resource production of a country, but are usually focused on specific persons, companies or organizations. To give an example: [United Nations Security Council Resolution \(UNSCR\) 2217 \(2015\)](#) concerning the Central African Republic allows to place individuals and entities on the sanction list for ‘providing support for armed groups or criminal networks through the illicit exploitation or trade of natural resources, including diamonds, gold and wildlife, as well as wildlife products’. While the EU always implements UNSC sanctions, in some cases it has also supplemented them or adopted completely unilateral measures. During the 2011 civil war in Côte d’Ivoire, [UNSCR 1975 \(2011\)](#) included financial and travel measures against President Laurent Gbagbo and four members of his inner circle. Whereas the UNSC shied away from targeting the country’s natural resources, [EU Council Regulation 25/2011](#) imposed also restrictive measures on the cocoa and oil industry to hit Gbagbo and his allies economically.

A somewhat special case is the Kimberley Process, whose import and export scheme against ‘blood diamonds’ started in 2003. All participating states commit themselves to only import and export rough diamonds that are certified as being ‘conflict-free’. This certification scheme was a reaction to NGO reports that showed how existing UN sanctions against diamonds from Sierra Leone and Angola could easily be circumvented. The EU has played from the early days on an important role in the Kimberley Process and is represented by the European Commission as one single participant. In 2018, the EU held for the second time the rotating chairmanship (after 2007). As such it had the difficult task to guide a reform process on which the 53 participating states plus EU agreed in December 2017. While the Kimberley Process was initially very innovative in the sense that it integrated NGOs and diamond industry in its structures, in the past year most NGOs have left it and take a very critical position due to its perceived lack of effectiveness. One of the main objectives of the EU during its tenure was therefore to strengthen the tripartite structure. In particular, the [current definition of conflict diamonds](#) as “rough diamonds used by rebel movements to finance wars against legitimate governments” is seen as too narrow by NGOs and parts of the industry as it does not include other human rights violations or violence committed by state actors. While the western participants are open to a broader definition, many African states are fiercely opposed to this as they see it as an infringement of their natural resource sovereignty and also fear that this definition may turn on them one day. The UN General Assembly supported in March 2019 by consensus an EU-sponsored [resolution](#) that called for further reforms to strengthen the KPCS.

1. VLASKAMP, Martijn. “The European Union and natural resources that fund armed conflicts: Explaining the EU’s policy choice for supply chain due-diligence requirements”. [Cooperation and Conflict Journal](#), 54(3), 407–425, (2018).

Despite these problems, the Kimberley Process has played an important role in the area of conflict resources as it helped to establish the idea that one way to tackle the enforcement problem of sanctions is to trace back the entire supply chain of a product. This idea is also behind the **2010 EU Timber Regulation**, which makes it mandatory for all importers of timber and timber products to the European Single Market to provide evidence that the logs have been legally produced. The only fast lane is certificates from countries which have signed a Voluntary Partnership Agreement with the EU to establish certain timber management mechanisms. For timber from other places, importers have to come up with evidence for its legal status, such as private certifications. While this regulation was primarily motivated by environmental concerns, its stipulations also refer explicitly to timber that has funded armed conflicts.

In 2017, the EU adopted the **EU Conflict Minerals Regulation**, which will enter into force in 2021. This policy was influenced by section **1502 of the US Dodd-Frank Act** and broader developments at the UN and OECD. According to this legislation, importers of gold, tin, tantalum and tungsten from conflict-affected and high risk areas must perform due diligence to avoid funding armed groups (the Commission still has to define what places classify as such). To do so, they can follow the recommendations of an **OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas**. This measure is limited in scope, as there are simply not so many companies in the EU (anymore), which import raw materials. At the same time, however, the EU regulation concentrates on the upstream part of the supply chain and targets smelters, both inside and outside the EU. The Commission wants to establish a list of 'responsible smelters and refiners', which is expected to create a stimulus for them to conduct due diligence as well.

Objectives of restrictive measures

When discussing the merits and problems of restrictive measures, it is crucial to first think about the concrete objective of a possible policy against a conflict resource. Francesco Giumelli identifies in his book *"Coercing, Constraining and Signaling: Explaining UN and EU Sanctions After the Cold War"* three 'logics of sanctions': coercion (behavioral change on the part of targets), constraining (undermining the capabilities of targets to achieve policy objectives) or signaling (sending a message to the target or to domestic or international audiences).

A coercing measure against a conflict resource seeks to change the cost/benefit considerations of the targeted

parties. It is based on the assumption that the warring parties are driven by economic calculations. If looting natural resources becomes less lucrative, the actors are expected to alter their behavior. For example, as a reaction to the post-electoral unrest in Zimbabwe in 2008 and violence in the Marange diamond fields, the EU put a ban on diamonds traded by the state-owned Zimbabwe Mining Development Corporation to hurt the Mugabe-regime economically. This ban was only lifted when Zimbabwe had met a number of requirements of the EU about the incorporation of opposition figures in the government.

Constraining measures against conflict resources seek to limit the capabilities of the targeted actor. An example is **UNSCR 2146 (2014)**, which reaffirmed the "the importance of international support for Libyan sovereignty over its territory and resources" and expressed the concern that "the illicit export of crude oil from Libya undermines the Government of Libya and poses a threat to the peace, security and stability of Libya". Curtailing this trade was therefore seen as a way of weakening the opponents of the Government.

The third possible objective of policy measures against conflict resources is to signal a message. One motiva-

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tion can be to show to the world that the EU is united on an issue and willing to take action. The message can also be aimed at the targeted party to show that the EU wants to punish its behavior. In many cases, it is secondary whether the targeted actor will alter its position as an immediate reaction to these measures. The 2012 EU import sanctions on oil from Syria could be, to some extent, placed in this category². Clara Portela argued already **at that point** that energy sanctions 'require some time to produce sufficient damage to encourage concessions (and are therefore) ill-suited to address situations requiring an urgent fix such as the current crisis in Syria'. While the EU may still have hoped to hurt the regime economically, according to Portela, "part of the impulse behind the sanctions (was also) to show support for the Arab uprisings, in an attempt to make up for its lack of determination during the first weeks of the Arab spring in early 2011".

2. In 2013, an exception for 'moderate rebels' was added to the EU sanctions regimes. In 2015, the UNSC adopted sanctions against the oil trade with the Islamic State and the al Qaeda-linked Nusra Front.

Five questions to ask before imposing measures against conflict resources

As previously explained, the EU can adopt 'traditional' sanctions to curtail trade in conflict resources and/or include in the future a place in its list of conflict-affected and high risk areas. This section will discuss five criteria to keep in mind when taking policy decisions about such measures, which I adapted from the [OECD Guidelines for Project and Programme Evaluations](#): (I) the relevance of conflict resources for the conflict dynamics; (II) how effective and (III) efficient

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What Is the Relevance of Conflict Resources to Conflict Dynamics?

First of all, policymakers need to identify the role of the resource in question for the conflict dynamics. Policymakers, NGOs and media outlets alike are often fascinated by stories about 'greedy' rebels that fight for money. One example is the 2006-movie '[Blood Diamonds](#)', starring Leonardo di Caprio, which received five Academy Awards nominations. The idea that a complex looking war is only about economic benefits sounds both easy and compelling.

However, on a closer look, there are only few (if any) armed conflicts that are entirely about natural resources. This does not mean that natural resources are an element to ignore in policies to mitigate or terminate armed conflicts. The distribution of natural resource revenues can be one of the root causes of armed conflicts, such as in the case of South Sudan. One of the motives for the country's independence struggle was the perception that most of its oil wealth only benefited other parts of Sudan. However, also in this case, other factors such as ethnic violence or political repression played a role.

In many cases, the role of natural resources evolves over the course of a conflict. Initially, they may primarily serve as a source of funding to finance the military efforts of a politically or socially driven uprising. The high profit margins of many conflict

resources make it possible to generate relatively quickly revenues. A frequently seen pattern is that the longer the conflict takes and the more lucrative the trade in these commodities is, the more these revenues start to influence the agendas of involved parties. One example is the Taliban in Afghanistan, which is increasingly prioritizing political and economic considerations over religious motivations. As the Afghan journalist [Sami Yousufzai](#) says "the Taliban can be compared to the former anti-Soviet Mujahedin in the 1980s, which moved from being ideologically driven zealots into marauders guided by their lust for power and money". While in power, the Taliban prohibited growing opium for being 'unislamic'. Today, in contrast to the Afghan state and Islamic State, the Taliban allow communities to harvest them and even protect the crops. One reason is that they have gotten more pragmatic and such steps foster local support among the population. But another reason is that many Taliban groups benefit themselves massively from the lucrative opiates trade. Considering that [many of their recruits are driven by economic motivations](#) (the Taliban pay better and more regularly than the state forces), the Taliban have good reasons for not being too strict on this element of their ideology.

A final element to take into consideration is the relative importance of conflict resources for the funding of armed groups. While some groups depend heavily on them, in other cases they are only one source of income among many diverse options. Many rebel groups have different sources of income and may monetize anything in the territories they control. During the height of the IS, for example, media and policymakers often focused on the oil wealth of the organization. In 2014 Foreign Policy titled an article "[The Islamic State is the Newest Petrostate](#)". Whereas oil was indeed an important source of revenues, [recent estimations](#), using remote sensing technology, indicate that the production volume was grossly overestimated. Many occupied oil fields were inactive or unproductive when IS arrived, or their output decreased dramatically due to the ongoing conflict, air strikes and maintenance issues. Moreover, they could only sell it for a fraction of the world market prices on the black market. As a source of revenue, IS was relying for these reasons more on looting in the conquered territories and 'taxing' the population. According to calculations of the [International Centre for the Study of Radicalisation](#), these sources of revenues only decreased when the organization started to lose territory to the Syrian Democratic Forces and the Assad regime. As this example illustrates, one must be careful to not overestimate the role of natural resources as a source of funding for some armed groups.

How Effective Can These Measures Be?

A major problem of restrictive measures against conflict resources is their often limited effectiveness. In many conflicts, it is difficult to enforce them due to limited state presence and rampant corruption in the affected regions. Neighboring countries may also not have an incentive in stopping illegal trafficking too effectively for political or economic reasons. As a result, the targeted commodity can relatively easily be smuggled. In some cases it is sold on the local or regional black market. In other cases, when these commodities are part of global supply chains, their true origin is hidden. The Kimberley Process is, for example, currently struggling with conflict diamonds from the Central African Republic that enter the market as products of neighboring Cameroon. On the sanctions list are several leaders of armed groups, who do not benefit from the exploitation itself but make most of their money with the illegal trafficking of banned diamonds.

The question to ask is, therefore, how to stop the trade in conflict resources effectively. In the last decade, states are increasingly turning to supply chain due diligence requirements, such as the EU Timber Regulation or EU Conflict Minerals Regulation. By forcing companies to trace back the entire supply chain they hope to isolate banned commodities. While this policy seems to be somewhat more effective than 'classical' sanctions, as it allows identifying more easily suspicious patterns, it is also considerably more expensive, which leads to the next point to take in consideration.

How Efficient Will These Measures Be?

Adopting measures to curtail trade in potential conflict resources can create substantial costs for the European industry. In case of sanctions, companies have to look for other, potentially more expensive, suppliers. Supply chain due diligence requirements can imply more bureaucratic paperwork as companies have to deliver continuously evidence that their products are conflict-free. Moreover, industries may have to establish and maintain costly certification systems, such as the Kimberley Process Certification Scheme.

When the European Commission published in 2014 its **impact assessment** of a Conflict Minerals Regulation, it estimated that full mandatory supply chain due diligence measures (as in the United States) would cost about 8.4 billion Euros, and approximately 1.7 billion Euros on a recurrent annual basis thereafter. And this number would have been even higher if not about one third of the affected companies had to comply with similar US legislation anyway. To put this number in

context, the entire **2018 state budget of the DRC**, the main target of these measures, is about 6.5 billion Euros. One can therefore wonder whether such expenses could not be used in different ways to improve the situation of the population in DRC.

Even some NGO voices are today wondering whether some of the existing transparency systems are a sledgehammer to crack a nut. According to the current standards of the Kimberley Process, for example, there is only one country (Central African Republic) which is potentially trading in 'blood diamonds'. Brad Brooks-Rubin, of the

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NGO Enough Project, wrote in a 2017 **opinion piece** that "today, companies and governments spend tens of millions of dollars per year implementing the KP through personnel and systems. This gives the appearance of a system that can ensure that diamonds are conflict-free, but the data says otherwise". In other words, some systems are in the first place a way of giving consumers a good consciousness about their purchases, without actually having the promised impact on the ground. Brooks-Rubin argued that it would make more sense to "to focus intensely on solving problems together where they are actually occurring, rather than maintaining a system that is largely irrelevant to today's concerns".

What Is the Expected Impact of These Measures on the Ground?

The fundamental idea behind policies that seek to curtail trade in conflict resources is that the actors are primarily motivated and constrained by economic factors. If one is able to take their source of income away, they would lose power as they could not maintain their military machinery or would become a less attractive option for potential new recruits.

There is, however, only little academic evidence that restrictive measures decrease conflict duration or make them less violent. Instead, as **Wood et al argue**³, these measures have often adverse effects, and may prolong conflicts or make them more violent because they affect the balance of power. In fact, **according to Hultman and Peksen**⁴, threatening with sanctions can already in-

3. WOOD, R. M., KATHMAN, J. D., and GENT, S. E. "Armed intervention and civilian victimization in intrastate conflicts". *Journal of Peace Research*, 49(5), 647–660, (2012).

4. HULTMAN, L., and PEKSEN, D. "Successful or Counterproductive Coercion? The Effect of International Sanctions on Conflict Intensity". *Journal of Conflict Resolution*, 61(6), 1315–1339, (2017).

crease conflict intensity, as the targeted actors seek to improve their military situation before the potential effects kick in. At the same time, economic sanctions can also hurt the livelihood of ordinary people.

An example of such unintended consequences is, **according to critics**, section 1502 of the 2010 US Dodd-Frank Act, which obliged US-registered public companies to report whether they were using potential 'conflict minerals' or not. To avoid potential reputation damage and the administrative work of following the entire supply chain of every product that might have a piece of DRC minerals in it, many companies decided not to import anything from the eastern DRC anymore. As a result, thousands of artisanal miners lost their primary source of income. **Studies by economists** show how infant mortality went up 143 percent due to the decreased income of many families. At the same time, **according to other studies**, violence was not ended, but only relocated towards places with less regulated resources. Many armed groups became more aggressive among each other and against civilians, as they had to find alternative sources of revenues, which meant in many cases aggressive looting from the local population. In sum, a well-meant policy made things even worse for local communities (at least in the short and medium run). When targeting conflict resources it is crucial to find ways that limit the economic damage for the civilian population as far as possible.

How Sustainable Are These Measures?

Finally, it is important to assess how sustainable these measures will be. In other words, whether they can create continued long-term benefits or are just a quick patch on a specific situation. In some cases, sanctions create an external shock, but once the actors get used to this constraint, business goes on as usual: trade routes are changed, some actors get more powerful and some lose out. The cards are reshuffled, but the game stays the same. The challenge is therefore to use the created window of opportunity to end a conflict.

Another element to take into consideration is the duration of such restrictive measures. When they have been successful, it is important to not lift them too early in the post-conflict stage. Instead it is rather recommendable to maintain them to motivate structural reforms in the post-conflict setting that deal with some root causes of the conflict. An example is the UNSC sanctions against diamonds exports from Côte d'Ivoire: imposed in 2005 during the first civil war (2002-2007), maintained during the second civil war (2011) and lifted in 2014. Given the role of diamonds in both conflicts, and the still thriving illegal trade, the UNSC was waiting for the green light from the Kimberley Process to end the sanctions regime. Only once Côte d'Ivoire had implemented the requirements of the KPCS, it could return to the global diamond market (**UNSCR 2153 (2014)**).

Conclusion

It is crucial to make sure which of Giumelli's three objectives –constrain, coerce and signal- one wants to pursue when imposing measures against conflict resources.

If the aim of the restrictive measures is to *constrain* certain behavior or *coerce* actors into some behavior, it is important to be aware that even if natural resources play a relevant role in the conflict dynamics, they are usually only one variable out of many to take into account. Turning this one screw can therefore only contribute to achieving the aspired objectives if these policies are part of a comprehensive approach to a conflict. In other words, implementing such measures in isolation is not a silver bullet to end resource-fuelled conflicts and neither effective nor efficient. This is important to take into account when the EU adopts sanctions or places a country on the future Conflict Minerals Regulation's list of high risk and conflict-affected areas. To be part of a sustainable solution, such measures have to be embedded in a broader approach to an armed conflict.

In some cases the EU may be aware of the problems to coerce actors with their policies against conflict resources or to constrain their behavior, but nevertheless it can decide to adopt these measures to *signal* a message. Under these conditions, the effectiveness and sustainability of the policies on the ground may be less relevant. However, in these cases the efficiency and impact becomes crucial. To spend billions of Euros to just send a message may not be the most efficient policy approach. To put the livelihood of the civil population in affected regions in peril for the sake of European 'actorness' is a morally questionable policy impact. In such cases, doing nothing with regards to conflict resources can be better than worsening the situation. In other words, if the EU wants to send a message it has to ensure that the delivery charges are not paid by civilians in the war-affected places.

Conclusively, policy measures against conflict resources can be a useful policy tool to mitigate or terminate armed conflicts if applied properly and as part of a broader set of measures. If applied solely, however, they are at best ineffective and, in many cases, can even harm innocents in the targeted countries.