

From conflict resources to sustainable development

Memorandum by Fatal Transactions on the European Union's contribution to natural resource management in Africa

From fatal to fair mining transactions

The people in mineral rich countries in Africa hardly benefit from the countries' natural resources. Moreover, natural resource exploitation and its trade often contributes to a continuation of violence and human rights abuses in conflict and post-conflict areas.

The national governments of African countries are primarily responsible for protecting their civilians against natural resource related violence and human rights abuses. 'Resource governance' is the umbrella which captures different governmental policies and tools which, when well implemented, break the link between violence and natural resource exploitation and trade. One of Fatal Transactions' goals is a fair and transparent negotiation and implementation process of mining licenses and mining contracts, based on national and international legislation.

Mining concessions and mining contracts describe the operational aspects of the mining activities, the exploration and exploitation conditions and tax regimes, and should incorporate additional (to the legislation) social and environmental conditions in those countries where national legislation does not meet international fundamental law. Fairly and transparently negotiated mining concessions and mining contracts are a prerequisite for sustainable development. Moreover, creating transparency and local ownership in the negotiation and implementation process of mining concessions can facilitate peace building efforts in fragile post-conflict situations.

The role of Europe

The Memorandum by Fatal Transactions on the European Union's contribution to natural resource management in Africa, *From Conflict Resources to Sustainable Development* (July 2008) outlines the current debate and activities within the European institutions on natural resources. The Council and Commission address natural resources from different perspectives (development, security, business & trade, environmental and human rights) and are included in their policies. However, Fatal Transactions argues that the resulting policies neither constitutes a whole nor are those consistent and comprehensive. Major (including financial) commitments are not translated into practice. Three examples:

The European Investment Bank

The European Investment Bank (EIB) is the financial lending agency furthering the policy objectives of the European Union (EU). The EU Member States and the European Commission are the shareholders of the EIB. The EU recently allocated an additional € 1.5 billion to the Investment Facility (IF), an outcome of the Cotonou Agreement, under the 10th European Development Fund allocation covering the years 2008 to 2013. An example where the EIB has failed to acknowledge the EC's development objectives is the Tenke Fungurume Mining project in Katanga, Democratic Republic of Congo (DRC). The Bank approved the loan in 2007 when the Tenke mining license was still under revision by the Government of the DRC, so that the findings of this

review could not been fully taken into account by the Bank. This revision process of all existing mining licenses signed during the war, occurs with national and international support of NGOs and a number of governments. It is a first step and crucial element for the DRC to obtain a fair share of mining profits and sustainable mining operations. By ignoring this process, the EIB has failed to acknowledge its mandate provided by its shareholders to implement the EU's development aid and sustainability policies. Fatal Transactions therefore demands from the EIB, the European Commission and the EU Member States to work towards improved guidelines and standards on providing support to mining projects in Africa.

Corporate Social Responsibility (CSR) in mining activities

The EU initiated the CSR Alliance in 2006 after publishing its Communication on 'Corporate Social Responsibility. A business contribution to sustainable development' in 2002. It has shown very little concrete action since and did not proactively follow up on important initiatives such as the EITI. In order to protect human rights and to promote and assist sustainable economic investments in post conflict countries, the EU failed to set up and implement concrete guidelines for those European companies that are active in conflict sensitive environments. Herein included should be a fair and transparent negotiation process of mining contracts. Fatal Transactions argues that the CSR policies of the EC should be coherent with its own development agenda and objectives, including its commitment to protect peoples' and human rights. The EU/Africa Strategy mentions the important value of business activities in Africa. Consequently, this demands scoping and defining the responsibilities of companies that are doing business in Africa. We ask the European Commission to take on a more pro-active position in defining those responsibilities. This includes a CSR policy that is coherent with its development policy, including strong implementation and independent control mechanisms and addressing CSR not as an excuse not to address binding legislation.

Country Strategy Papers and National Indicative Programmes

Country Strategy Papers (CSPs) and the intervention frameworks deriving from them, should outline the concrete actions of the EC's policy on natural resource management. Fatal Transactions concludes that there is very little practical translation of the EC's policy at the country level. For instance, the CSPs of Zambia and Namibia do not adequately address the potential positive and negative implications of mining activities in the countries concerned. In Zambia, there has so far not been concrete support from the EC to the crucial revision process of the mining contracts in the Copperbelt region. The EC, through their EDF facilities and EU delegations on the ground, should provide special support to mining countries such as Zambia and particularly to fragile natural resources rich post-conflict countries such as the DRC and Angola, in creating policies and mechanisms to manage their resource wealth and to use it for post-conflict reconstruction and development. The recently developed debate on fragile states is a positive step in this regard.

In conclusion

Fatal Transactions argues that the agenda of the European Union on safeguarding peace and security, on protecting human rights and on stimulating sustainable development should be linked into its natural resource governance agenda. One way to achieve this, is to provide assistance to governments of resource rich countries with the (re)negotiation of mining contracts. The European Commission has 3 instruments available with connected financial means; the European Investment Bank, its commitment to Corporate Social Responsibility and its Country Strategy Papers. It is these that should be instrumentalized.