

## ELEPHANT POACHING AND IVORY TRAFFICKING AS A THREAT TO THE PEACE

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**Editor's note:** This contribution builds on “Novel practice of the Security Council: Wildlife poaching and trafficking as a threat to the peace” by this author, published on EJIL Talk!,<sup>1</sup> the blog of the European Journal of International Law.

### *Instability and lawlessness in the African Great Lake region*

The two African states Democratic Republic of Congo and the Central African Republic have been struck by civil war enmeshed with military involvement of neighbouring states. The ongoing conflicts have been fuelled by the fight over the countries' natural resources, ranging from diamonds over gold to ivory. Since the end of the 1990s, the UN Security Council and other UN bodies have been dealing with the conflicts in Congo, and have been trying to bring to an end and to sanction the serious violations of human rights and of IHL that have been committed by all sides in those conflicts. The international community's attempt to come to grips with the so-called “blood diamonds”, *inter alia* through a multi-stakeholder process and certification scheme is well known. With two resolutions of January 2014, the UN Security Council addresses the destabilizing effects of the illegal exploitation of *wildlife*.

### *Targeted sanctions against wildlife poachers*

In two resolutions of January 2014, on the Central African Republic<sup>2</sup> res. 2134, and on the Democratic Republic of the Congo (res. 2136<sup>3</sup>), the UN Security Council authorized targeted sanctions against poachers, wildlife product traffickers, and those persons and entities pulling the strings. States must freeze the assets and restrict the travel of any individual or entity found to be involved in wildlife trafficking. Practically speaking, the resolutions mean that traffickers must be targeted by officials from different government agencies, such as interior and finance ministries, and customs.

Both resolutions were primarily designed to target a number of armed rebel groups operating in the eastern region of the Democratic Republic of the Congo and in the Central African Republic. The United Nations suspects various armed rebel groups, such as the Lord's Resistance Army, Somalia's Al-Shabaab Islamist militant group, and Sudan's Janjaweed militia, of using the illegal ivory trade as a source of generating finances or otherwise to benefit from the illegal wildlife trade. With these resolutions, the Council *de facto*

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<sup>1</sup> Anne Peters, *Novel Practice of the Security Council: Wildlife Poaching and Trafficking as a Threat to the Peace*, EJIL: TALK! (Feb. 12, 2014).

<sup>2</sup> *SC Res. 2134* (Jan. 28, 2014).

<sup>3</sup> *SC Res. 2136* (Jan. 30, 2014).

qualified wildlife poaching and trafficking as a threat to the peace. Although this statement is at least implicit in the resolutions, their rationale remains anthropocentric.

*“Absence of the rule of law” in the Central African Republic as a threat to the peace*

As with the preceding res. 2127<sup>4</sup> with regard to the Central African Republic (CAR), both res. 2134 on the CAR and res. 2136 on the Democratic Republic Congo (DRC) are based on Chapter VII of the UN Charter, and explicitly state a threat to the peace. The finding of a “threat to the peace” is important because this constitutes the principal door opener for coercive measures under Chapter VII. In res. 2127 (concerning the CAR), the Security Council for the first time considered the “total breakdown in law and order” in a state, and “the absence of a rule of law”<sup>5</sup> as a “threat to international peace and security.”<sup>6</sup>

*A persisting transboundary perspective*

The Security Council’s approach builds on and extends previous Security Council practice. As is well known, the Security Council has, since res. 688 (1991) on Northern Iraq, continuously expanded the concept of a “threat to the peace” and moved beyond the “classical” threat in the form of inter-state armed conflict. Importantly, res. 1368 (September 12, 2001) qualified the attacks of 9/11 on the World Trade Center “like any act of international terrorism, as a threat to international peace and security.” Some of the constellations appear on their face as purely domestic ones. However, in most instances, some transboundary features were present, if only in the form of a danger of a potential outflow of persons across state boundaries.

It is consistent with this practice that, in res. 2127 as well, the concern is not only the internal lawlessness of the CAR, but also “concern about the consequences of instability in the CAR, on the central African region and beyond,” as the Council highlights at the start of the resolution (preamble, third indent). It is this danger of a spillover which creates, according to the Security Council, “the need for the international community to respond swiftly.” Overall, the UN Charter’s expanded and “positive” notion of peace does not yet seem to be devoid of any transboundary element.

*Poaching and trafficking as a threat to the peace*

The more innovative element in the new Council resolutions is their focus on wildlife. Resolution 2136 on the Democratic Republic of the Congo imposed financial and travel measures, *inter alia*, against “individuals or entities supporting armed groups in the DRC through illicit trade of natural resources, including gold or wildlife as well as wildlife products.”<sup>7</sup>

The Council here “reiterates its call to the DRC and States in the Great Lakes region to require their customs authorities to strengthen their control on exports and imports of minerals from the DRC, and to cooperate at the regional level to investigate and combat regional criminal networks and armed groups involved in the illegal exploitation of natural resources, including **wildlife poaching and trafficking** . . . .”<sup>8</sup> (emphasis added). The resolution’s preamble recalled “the linkage between the illegal exploitation of natural resources, including **poaching and illegal trafficking of wildlife, illicit trade in such resources**, and the

<sup>4</sup> SC Res. 2127 (Dec. 5, 2013).

<sup>5</sup> *Id.* at preamble, paras. 14-15.

<sup>6</sup> *Id.* at preamble.

<sup>7</sup> See SC Res. 2136 para. 4 (Jan. 30, 2014).

<sup>8</sup> *Id.* at para. 24.

proliferation and trafficking of arms as one of the major factors fuelling and exacerbating conflicts in the Great Lakes region of Africa,” and encourages the continuation of the regional efforts of the International Conference of the Great Lakes region and the governments involved “against the illegal exploitation of natural resources” (preamble, tenth indent, emphasis added).

With regard to the CAR, a line of Council resolutions (res. 2121<sup>9</sup> and res. 2127<sup>10</sup>) had previously dealt with the illegal exploitation of “natural resources,” meaning the so-called blood diamonds (which have been the object of a number of Council resolutions) and elephant tusks. Now resolution 2134<sup>11</sup> on the CAR is “expressing concern that diamond smuggling and other forms **of illicit natural resource exploitation, including wildlife poaching, are destabilizing forces** in CAR, and encouraging the Transitional Authorities and the State Authorities to address these issues through all possible avenues” (emphasis added). It requests states to impose the mentioned sanctions.<sup>12</sup>

#### *Living “natural resources” as a reason for ongoing conflict*

Previous UN documents have, at least since 2013, mentioned “natural resources” (including living resources) as a reason for ongoing conflict in various regions of Africa. For examples, see the Report of the Secretary-General on the activities of the UN Regional Office for Central Africa and on the Lord’s Resistance Army-affected areas<sup>13</sup>; see also Findings and Recommendations by the UN multidisciplinary mission to the Central African Republic;<sup>14</sup> Report of the Secretary-General on CAR.<sup>15</sup> So the nexus between the (illegal) exploitation of natural resources in Africa and armed conflict (partly over those resources) is well known and has long been tackled (more or less successfully) by the United Nations, by governments, and business itself through international, national, and self-regulation (e.g., certification schemes such as the Kimberley process for diamonds). What is new is the extension of this approach to *living* resources.

#### *Anthropocentric motivations*

The Security Council resolutions are an important step in fleshing out the emerging field of global animal law. However, it must not be forgotten that the entire political and legal process leading to them is dominated by anthropocentrism. The focus is on organized crime, on the proliferation and trafficking of arms, on funding of armed groups, and on the emergence of radical networks. Tellingly, the meeting of the Security Council that prepared the resolutions on the CAR<sup>16</sup> did not even raise the issue of wildlife trafficking. Nevertheless, two weeks later, the link between wildlife trafficking, armed conflict, and human rights violations was made in res. 2127. Along those lines, World Wildlife Fund species program manager Wendy Elliott highlight-

<sup>9</sup> [SC Res. 2121](#) (Oct. 10, 2013).

<sup>10</sup> [SC Res. 2127](#) (Dec. 5, 2013).

<sup>11</sup> See [SC Res. 2134](#) preamble (Jan. 28, 2014).

<sup>12</sup> *Id.* at para. 37.

<sup>13</sup> UN Secretary-General, [Rep. of the Secretary-General on the Activities on the United Nations Regional Office for Central Africa and on the Lord’s Resistance Army-affected Areas](#), UN Doc. S/2013/297 (May 20, 2013).

<sup>14</sup> UN Secretary-General, [Letter](#) dated Sept. 16, 2013 from the Secretary-General addressed to the President of the Security Council, Annex para. 19, UN Doc. S/2013/557 (Sept. 16, 2013).

<sup>15</sup> UN Secretary-General, [Rep. of the Secretary-General on the Central African Republic Submitted Pursuant to Paragraph 22 of Security Council Resolution 2121 \(2013\)](#), para. 12, UN Doc. S/2013/677 (Nov. 15, 2013).

<sup>16</sup> *Id.*

ed<sup>17</sup> that wildlife traffickers “are funding the armed groups that are causing the human rights violations, but it is still treated as an environmental issue and that is just not going to work out.”

Arguably, if human needs and interests were not in the foreground, the Security Council would not have taken any robust action at all. From that perspective, the central African elephants can be said to benefit from the anthropocentric approach. It would thus be wrong to pit human security against animal security, because both species are ultimately in the same boat. In the long run, however, an eco-centric approach to peace and security seems more appropriate to guarantee a sustainable peace for all living beings on earth.

### *Conclusion*

The novel eco-sensitive practice of the Security Council is in line with its previous practice on climate change. However, the Council has not qualified climate change as a threat to the peace outright in an operative decision, unlike what happens now with regard to living natural resources.

The Security Council decisions of January 2014 are a welcome prolongation and extension of previous practice of the Security Council on an “enlarged” and “positive” concept of peace. It is hoped that not only human security, but also the integrity of nature, the survival of species, and the well being of animals will be increasingly relevant factors in global law and politics on peace and security.

<sup>17</sup> *UN Targets Wildlife Traders in Africa Sanctions*, HUFFINGTON POST (Jan. 30, 2014).