

MEMORANDUM OF DETERMINATIONS

Political Violence Claim of International Rescue Committee (the “Investor”)

Central African Republic (“CAR”) – Project Country Annex to Master Contract of Insurance No. X-075

I. CLAIM

By an e-mail dated March 28, 2013, the Investor notified OPIC that the Investor had losses of Covered Property as a result of political violence in the CAR. On July 24, 2013, the Investor submitted an initial application for compensation and on August 23, 2013, provided an account of the lost Covered Property. The Investor subsequently provided additional information regarding the circumstances of the losses, requested adjustments to the amount claimed and on February 24, 2014, provided a certificate confirming its representations in respect of the claim.¹

The losses occurred as a result of looting by Seleke rebel forces in cities throughout CAR during several months of fighting against government forces. On March 24, 2013, Seleke rebel forces took control of the capital city, Bangui, and forced the President, Francois Bozize, to flee the country. The rebel forces took control of three cities in which IRC offices were located, Kaga Bandoro, Bangui, and Bocaranga, and forcibly seized Covered Property, such as office equipment and vehicles. OPIC finds that the claim is valid and that the Investor is entitled to compensation in the amount of up to \$595,413.40.

II. FACTUAL BACKGROUND

The Central African Republic is one of the world’s least developed nations and is currently experiencing a period of prolonged political instability and lawlessness.² In 2007 and 2011, then-current President Francois Bozize’s administration signed peace accords with various rebel groups. However, in December 2012, three rebel groups in northern CAR, the Union of Democratic Forces for Unity (UFDR), the Convention of Patriots for Justice and Peace (CPDJP), and the Patriotic Convention for Saving the Country (CPSK), announced their unification and formed the Seleka rebel group. The Seleka rebels claimed Bozize had failed to fulfill the terms of the peace accords that the UFDR and the CPDJP had signed. In January, Bozize’s government and the Seleka rebels attempted to negotiate a new power sharing agreement, the Libreville Agreement, which quickly collapsed. Beginning in December 2012 and over the next three months, the Seleka rebels mounted attacks throughout the country advancing from the north to the south capturing many major cities in their efforts to take control of the

¹ The notice, application for compensation and related documents are attached as Exhibit 1.

² The factual description is based upon reports in the international press and State Department background notes, travel warnings and press briefings, copies of which are attached hereto as Exhibit 2.

country. By March 2013, the Seleka rebels had reached Bangui, the capital of CAR, and overthrew Bozize's government. On August 18th, Seleka's leader, Michel Djotodia, was formally sworn in as president. In January 2014, President Djotodia resigned and was replaced by Catherine Samba-Panza, but the conflict remains ongoing.

The Seleka rebels' capture and occupation of multiple cities over their three-month offensive resulted in widespread looting, displacement, and human rights violations. Multiple international organizations' facilities were targeted, and looting and violence persisted even after the overthrow of the government. Insecurity was still prevalent in much of the country during Djotodia's rule because of his unwillingness or inability to control elements of the Seleka in Bangui and other provinces. The demilitarization process has been slow because various elements of the Seleka and other warlords have enough military strength to ignore Djotodia and his successors.

The Investor is an international nongovernmental organization that provides humanitarian aid in over 40 countries and in 22 U.S. cities. The Investor offers emergency aid and long-term assistance to refugees and those displaced by war, persecution, or natural disaster. The Investor has operated in the CAR since 2006 and continued operations throughout the Seleka rebel insurgency although at diminished capacity at the height of the violence.

III. THE CONTRACT

A. Scope of Coverage

The Master Contract of Insurance No. X-075 dated May 24, 2010 (the "Master Contract") and the Country Annex for CAR dated September 21, 2010 (the "Country Annex") together constitute the contract of insurance ("the Contract").³

Article VI of the Master Contract provides compensation if Political Violence is the direct and immediate cause of the permanent loss of all or some of the Covered Property due to physical damage, destruction, or the physical seizure and retention of the Covered Property. "Covered Property" is defined in Section 1.01.1 as the computers, office equipment, vehicles, inventory, buildings, furniture, generators, telecommunications equipment and other property that the Investor provides from time to time to its branch offices (each a "Foreign Enterprise") for use in carrying out the Project and of which the Investor is the direct or indirect beneficial owner or controller. "Political Violence" is defined in Section 6.01 as "a violent act undertaken with the primary intent of achieving a political objective, such as declared or undeclared war, hostile action by national or international armed forces, civil war, revolution, insurrection, civil strife,

³ Copies of the Master Contract and the Country Annex are attached hereto as Exhibit 3. Terms capitalized herein for other than grammatical reasons are used as defined in the Contract. Section references are to the Master Contract.

terrorism or sabotage.” The “Project” is defined as the Investor’s humanitarian relief projects, including, but not limited to, providing emergency and lifesaving assistance, delivering medical and public health services, shelter and food, and providing training, education and income-generating programs to refugees.

B. Compensation

Section 7.01 of the Master Contract provides that, if the requirements of Article VI are satisfied and subject to limitations and self-insurance obligations, compensation will be payable in the amount of the reasonable cost to repair any item of Covered Property or replace it with equivalent new property. In either case, compensation may not exceed 200% of the historical cost of the Covered Property. The Investor is required to retain 10% of the risk of loss on a per loss basis (§1.03 Self-Insurance Requirement). The Investor must repair or replace the lost property within three years of the loss (§7.01 (a)(ii)) as a condition of compensation.

IV. DETERMINATIONS UNDER THE CONTRACT

A. Political violence was the direct and immediate cause of the permanent loss of Covered Property

The Seleka insurrection that resulted in the overthrow of the Bozize administration and the installment of Seleka’s leader, Djotodia, as the president of the CAR, targeted and achieved a political objective and therefore constituted Political Violence. The Seleka rebels destroyed and seized property from individuals, public parties and NGOs, including humanitarian aid agency offices such as the UN’s offices, all over the country as part of their overthrow of President Bozize’s government. The extent of the violence and its causes are well documented by accounts in the international press, as well as State Department releases and background notes.

The Investor’s claim arises from the looting of its offices in Kaga Bandoro, Bangui and Bocaranga. The Investor represents that Seleka rebels looted the Kaga Bandoro office on December 25th, 2012, the Bangui office on March 24th, 2013, and the Bocaranga office on April 2nd, 2013. Independent sources describe the looting and other acts of violence in those cities on those dates by the Seleka rebels during the insurrection.

The Contract insured Covered Property defined to include computers, office equipment, vehicles, inventory, buildings, furniture, generators, telecommunications equipment and other property used to carry out the Investor’s humanitarian relief efforts in the CAR. The Investor has certified that the property that is the subject of the claim constitutes Covered Property as defined in the Contract.

None of the exclusions set forth in Section 6.03 of the Contract apply, as (a) the amount of compensation payable is not less than the minimum compensable loss; (b) there are no measures that the Investor could have taken to protect the Covered Property; (c) there is no question of provocation by the Investor; (d) the Covered Property does not include any excluded items; and (e) the Investor is not obligated to assign any insurance proceeds to a third party (§6.03 (a) – (e)).

B. Compensation is payable in an amount of up to \$564,543.41

The Investor has certified the historical cost of the looted Covered Property at \$366,627.00. Under the Contract, compensation is payable for the reasonable cost to replace the lost Covered Property with equivalent new property. Such compensation may not to exceed 200% of the historical cost of the Covered Property and is subject to a 10% risk retention by the Investor. If the Investor elects compensation based on replacement cost, it must replace the lost property within three years of the loss (§7.01(a)(ii)).

The Investor has requested compensation based on replacement cost and has requested compensation in an amount equal to actual replacement for the Covered Property consisting of vehicles (up to the 200% historical cost limit for each vehicle) and compensation in an amount equal to 100% of the historical cost of the other items of Covered Property. According to the Investor’s Certificate, the historical cost of the vehicles is \$294,943.45 and the historical cost of the other items of Covered Property is \$71,683.55. The maximum amount of compensation is as follows:

Vehicles	\$589,886.90 (200% of historical cost)
Other Covered Property	\$71,683.55 (100% of historical cost)
Subtotal	\$661,570.45
Less 10% Retention	\$66,157.05
Maximum Compensation	\$595,413.40

None of the limitations upon compensation applies. The above amount is less than the Master Contract Maximum Aggregate Compensation on the date of loss (\$5,000,000) and less than the Project Country Maximum Aggregate Compensation in the Country Annex (\$892,284), and payment of compensation in the above amount would not violate the Investor’s duty to be self-insured (§1.03; §1.04; §7.02).

The Insured does not have any other insurance covering the Covered Property for the risks insured under the Contract; however, the Insured has insurance covering the Covered Property for other risks. Under the Contract, OPIC shall not reduce

the compensation payable due to compensation received under other insurance policies on account of the same event, except to the extent necessary to prevent the Investor from receiving more than the amount of the loss. The Insured received payment from another insurer for the loss of certain Covered Property in its Kaga Bandoro office on December 25, 2012 and those losses were not included in the Investor's claim for compensation from OPIC. Since those losses were not included in the Investor's claim to OPIC, this limitation on compensation does not apply (§7.03).

C. The Investor is in Compliance with its Contractual Duties in all material respects

The Investor has complied with its duties under the Contract in all material respects and has provided a certificate to that effect that is satisfactory to OPIC.

OPIC will pay compensation in an amount equal to the actual replacement cost of the Covered Property consisting of vehicles (up to 200% of the historical cost of each vehicle minus the 10% risk of loss retained by the Investor) upon presentation to OPIC of documentation evidencing the replacement of the vehicle and the amount paid. OPIC will pay compensation in an amount equal to the historical cost of the other Covered Property that is the subject of this claim, minus the 10% risk of loss retained by the Investor. The Investor will replace the Covered Property that is the subject of this claim within three years of the applicable loss.

The Investor will execute an assignment, and a receipt and release in connection with payment of compensation transferring to OPIC the Investor's claims arising out of the losses due to Political Violence.

V. CONCLUSION

Based on the foregoing determinations and subject to the execution by the Investor of an assignment and a receipt and release, I find that the political violence claim of the Investor is valid and that OPIC is liable for up to \$595,413.40 in compensation. The actual amount for the vehicles will be established and paid based upon subsequent documentation and in consideration of the Investor's release of OPIC from further liability for this incident.

OVERSEAS PRIVATE INVESTMENT CORPORATION



By: Kimberly Heimert

Its: Vice President and General Counsel

Date: April , 2014

May 2, 2014

**EXHIBIT 1 – NOTICE, APPLICATION FOR COMPENSATION
AND RELATED DOCUMENTS**

**EXHIBIT 2 – INTERNATIONAL PRESS AND STATE DEPARTMENT
REPORTS**

EXHIBIT 3 – MASTER CONTRACT AND CAR COUNTRY ANNEX