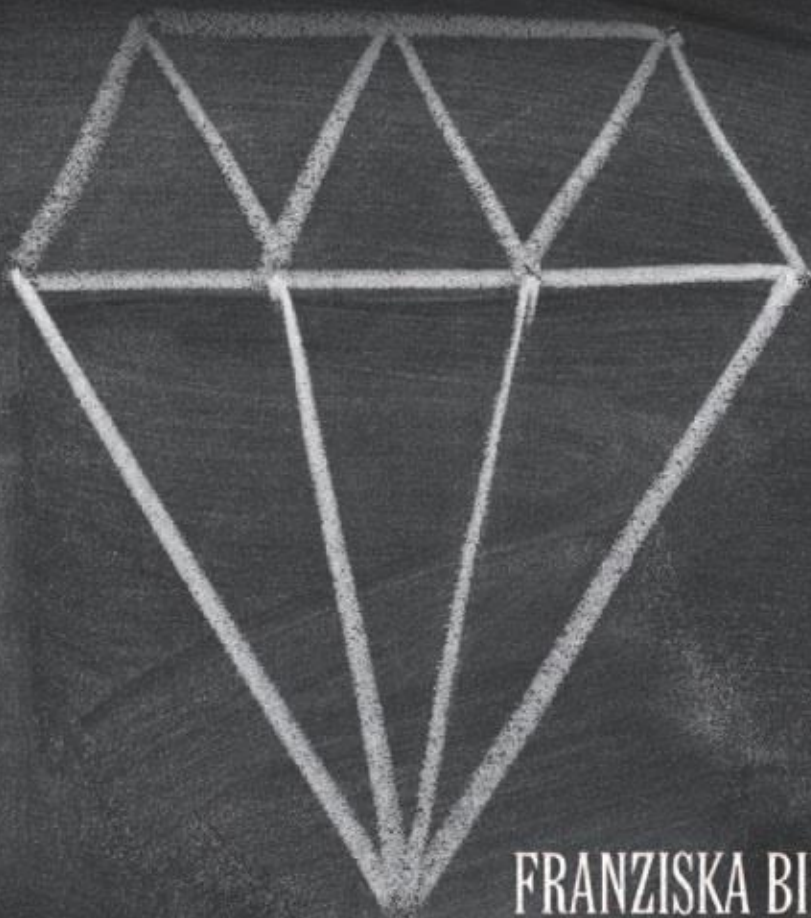


FROM BLOOD DIAMONDS TO THE KIMBERLEY PROCESS


ASHGATE

HOW NGOs CLEANED UP THE GLOBAL DIAMOND INDUSTRY



FRANZISKA BIERI

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How NGOs Cleaned Up the Global Diamond Industry

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University of Maryland University College Europe, Germany

ASHGATE

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What initially inspired me to undertake this study was my fascination with and appreciation for those who labor for achieving justice and human rights for all. I sincerely hope that their noble efforts will prevail.

It isn't enough to talk about peace. One must believe in it. And it isn't enough to believe in it. One must work at it.

Eleanor Roosevelt

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List of Acronyms and Abbreviations

AFRC	Armed Forces Revolutionary Council
AI	Amnesty International
CARAT Act	Consumer Access to a Responsible Accounting of Trade Act
CASM	Community and Small Scale Mining Initiative
CENADEP	Centre National d'Appui au Développement et à la Participation Populaire
CEO	Chief Executive Officer
CSO	Central Selling Agency
CSR	Corporate Social Responsibility
D4D	Diamonds for Development
DDII	Diamond Development Initiative International
DFAIT	Foreign Affairs and International Trade Canada
DfID	United Kingdom Department for International Development
DRC	Democratic Republic of Congo
EC	European Community
ECOMOG	Economic Community of West African States Monitoring Group
ECOWAS	Economic Community of West African States
EITI	Extractive Industries Transparency Initiative
EU	European Union
FSC	Forest Stewardship Council
G8	Group of Eight
GDP	Gross Domestic Product
HRD	High Diamond Council
HRW	Human Rights Watch
IDMA	International Diamond Manufacturers Association
IGO	Intergovernmental Organization
ILO	International Labor Organization
IMF	International Monetary Fund
IPIS	International Peace Information Service
JCK	Jewelers' Circular Keystone
KP	Kimberley Process
KPCS	Kimberley Process Certification Scheme
MPLA	Popular Movement for the Liberation of Angola
NAFTA	North American Free Trade Agreement
NGOs	Nongovernmental Organizations
NIZA	Netherlands Institute for Southern Africa

NMJD	Network Movement for Justice and Development
NOVIB	Nederlandse Organisatie Voor Internationale Bijstand (Dutch Oxfam)
PAC	Partnership Africa Canada
PETA	People for the Ethical Treatment of Animals
Res	Resolution
RUF	Revolutionary United Front
TNCs	Transnational Corporations
UAE	United Arab Emirates
UN	United Nations
UNDP	United Nations Development Programme
UNGA	United Nations General Assembly
UNITA	National Union for the Total Independence of Angola
UNSC	United Nations Security Council
USAID	United States Agency for International Development
WB	World Bank
WDC	World Diamond Council
WEF	World Economic Forum
WFDB	World Federation of Diamond Bourses
WTO	World Trade Organization

Chapter 1

A Diamond is Forever. Or is It?

Introduction

Diamonds are judged by the “four-Cs”: *carat*, *clarity*, *color*, and *cut*. In the late 1990s, however, consumers have been asked to inquire about a fifth C: *conflict*. Conflict or so-called blood diamonds are rough diamonds traded by rebels to finance their armed conflicts against legitimate governments. Blood diamonds have fueled and funded wars, massive death, and refugee crises in Angola, Sierra Leone, Liberia, the Democratic Republic of Congo (DRC), and Côte d’Ivoire.¹ It is estimated that four million people have died in wars involving conflict diamonds over the past few decades. Between 3.7 percent and 20 percent of the total diamonds traded were estimated to be conflict diamond during the 1990s. Even the lower-end estimate suggests a significant source of war funding, given that the annual diamond trade is worth around \$7 billion.

Parallel efforts by the United Nations (UN) and several non-governmental organizations (NGOs) catapulted the issue of blood diamonds onto the global agenda in 1998/1999, creating greater awareness amongst policy makers, business representatives, the media, and the public at large. What emerged was the Kimberley Process (KP), a negotiation forum involving states, NGOs, and industry. These unique tripartite negotiations rapidly led to the Kimberley Process Certification Scheme (KPCS), a voluntary international agreement regulating the diamond trade through the certification of legitimate diamonds. Today, 75 countries have joined the KP and adhere to its extensive requirements.

Only very few studies have investigated the conflict diamond campaign, describing how the various stakeholders initially engaged the problem and put conflict diamonds on the global agenda (Mokhawa and Taylor 2003; Sanders 2001; Smillie and Gberie 2001; Tamm 2004). A bit larger is the scholarly interest in the more recent regulation efforts. Studies have analyzed various aspects of the KP and its workings (Bone 2003; Grant and Taylor 2004; Scheiber 2006; Smillie 2005; Tamm 2002; Wright 2004). This book builds on these studies in answering the following questions: What factors account for the rapid spread of concern about this previously ignored issue? Why did the KP move so quickly to a consensual solution and so rapidly implement this unique global certification scheme? Beyond

1 There have been important studies on the role of conflict diamonds in fueling warfare (Cilliers and Dietrich 2000; Mokhawa and Taylor 2003; Smillie 2002). In fact, analysis on the problem is even more extensive if one considers the contributions of research institutes, think tanks, governmental and non-governmental experts.

explanations to these case specific questions, this book explores the campaign against blood diamonds and the KP as illuminating cases for two phenomena that have emerged in this era of globalization and that have reshaped global governance: transnational campaigning and global tripartite relations, between states, NGOs, and corporations. Let me briefly introduce both features here and offer a more in depth review of these processes at the end of this chapter.

A significant scholarly literature has developed investigating global campaigns and the influential role of NGOs in global politics (e.g., Price 1998; Smith 1999; della Porta et al. 1999; Khagram et al. 2002; Willetts 1996; Clark et al. 1998). Some evidence points to global campaigns as grassroots movements, creating bottom-up pressure to the political and economic establishment. Others point out that, rather than bottom up public pressures, global campaigns emerge in a top down fashion, lacking involvement of significant segments of the global public. Also, scholars have explored what strategies and frames are effective in for global campaigns (Keck and Sikkink 1998; della Porta and Tarrow 2005). Moreover, political opportunities are important to global campaigns, which often rely on dense networks and coalitions of NGOs across continents and issue areas. The blood diamond campaign and the KP offer further insights into these areas of scholarly examination. Specifically, the campaign exhibits top down organizing by networked NGOs. The case also specifies enabling conditions for campaigns to move forward, such as the threat of a boycott. Most importantly though, while much of the literature focuses on campaigns or the role of NGOs in the agenda setting phase of the movement, I explore how this campaign transitioned from initial awareness raising efforts to more formalized settings of decision-making and implementation in the KP. Here, we learn more about the role of NGOs as watchdogs. NGOs engaged in monitoring from within the KP and continued to do so from the outside, as independent actors, publishing highly critical reports where needed. In fact, I show that NGOs are not easily co-opted in these formalized governance settings. Also, their activities far exceed the usually ascribed watchdog functions but extend to implementation practices and policy making. I argue that these wide ranging input opportunities for civil society arose in the KP because of the decentralized nature of the KP and its formal tripartite structure.

This brings me to the second transformation in global governance I seek to illuminate with this case study. Tripartite solution building increasingly serves as model in global engagement (e.g., Kofi Annan's Global Compact, various forest conservation initiatives), yet academics, activists, industry leaders, and policy makers lack understanding of what multi-stakeholder coalitions entail, why they emerge and how effective they are. Some activists refuse participating in such settings assuming them to be a definite sell-out. Some in the industry believe that such arrangements legitimize business practices, without requiring changes in actual business practices. And many policy makers do not know how to engage the various stakeholders and are uncertain in what political venues such multi-actor negotiations should be held. In other words, tripartite structures, while very much en-vogue, are still very much ambiguous. This study provides important insights

and lessons on the intricate workings of such a tripartite process unfolding from earliest events of the blood diamond campaign that clashed the parties together until present undertakings in the KP.

Before further delving into these explorations, it is important to introduce in more detail the workings of the diamond trade and industry, to elaborate on the problem of blood diamonds, and to briefly outline the changes that have occurred in the diamond trade as a result of the campaign, which will be the focus of more detail in the remainder of the book. Let me first begin, by introducing the protagonists of the diamond industry.

De Beers and the Creation of Diamonds as We Know Them

There is nothing intrinsically beautiful or highly valuable about diamonds. In fact, diamonds are fairly common. The greatest price determinant is limited supply not rarity in nature. Moreover, most people would hardly recognize a diamond in its rough form. Rough diamonds to the untrained eye do not look particularly precious. The manner of cutting a diamond is crucial for hiding the flaws found in most natural stones, maximizing their brilliance and light while maintaining as much of the carat weight as possible. The largest cutting centers for diamonds are found in India and China. Lower value diamonds are cut mainly in Asia where labor costs are substantially lower. Higher value diamonds are most frequently cut in established diamond districts in Western Europe, New York, and Tel Aviv, where orthodox Jews have traditionally led the cutting and polishing sector. Thus, while 90 percent of all cut diamonds are processed in India, by value they account for only 50 percent of production. Once diamonds are cut and polished they are sold at one of 26 worldwide diamond bourses. By that stage, the value of the diamonds has already increased by one hundred percent (from \$8 billion as rough diamonds at mine production to \$16 billion when cut and polished in 2009) (Royal Bank of Canada 2009). The market value further increases by over 400 percent at the point of retail sales, totaling \$65 billion.

A handful of companies control the rough diamond market. De Beers controls a little over 40 percent of the global extraction market, while ALROSA, the Russian state-owned diamond company, has the second largest market share with over 20 percent. UK-based Rio Tinto, BHP Billiton, an Australian based company, and Aber, a Canadian firm, each have about 10 percent of the market. The diamond trade too is highly concentrated, with major trading centers in Antwerp (Belgium), London, Tel Aviv, and New York. Eighty percent of all rough diamonds and 50 percent of all cut diamonds are traded through Antwerp. De Beers and its subsidiaries control slightly under 50 percent of rough diamond distribution. At its monopolistic height, the Diamond Trading Company in London, De Beers' distribution arm formerly known as the Central Selling Organization, traded over 80 percent of all rough diamonds.

De Beers' successful history started in Kimberley, South Africa, in 1871, where its first mines were opened. This town would later give its name to the Kimberley Process. Cecil Rhodes, a British-born South African, founded the company. In 1888, De Beers started to form a consolidated cartel by buying up mines, restricting supply, and raising prices. Ernest Oppenheimer discovered a large diamond field in 1914. Oppenheimer's company, Anglo American, was asked by De Beers to join its cartel in 1920. Under a threat from Anglo American to flood the market with diamonds at low prices, De Beers agreed to make Oppenheimer chairman of De Beers in 1929. Since that day, De Beers' chairman has been an Oppenheimer (Ernest, Henry, and now Nicky) and Anglo American and De Beers have been intimately connected. In 1998, De Beers was divided into two main companies: De Beers Consolidated Mines Ltd. in Kimberley, South Africa, and De Beers Centenary AG in Lucerne, Switzerland. While the former dealt with matters relating to South Africa, the latter firm was in charge of all business dealings outside South Africa. In early 2002, DB Investments, itself controlled by the Oppenheimer family and Anglo American, acquired De Beers. De Beers was transformed into a private company, which then stopped releasing specific information on its stockpiles.

While the specifics of De Beers' corporate structure are rather complex, the market control it exerts as a monopoly is hardly mysterious. With its large market share De Beers is able to manipulate prices by adjusting diamond extraction and sales to market conditions. The large stockpile it has accumulated serves the purpose of reacting to market shifts and potentially flooding the market for a short period of time, hurting emerging competition. Under US antitrust laws, De Beers was prohibited from operating in the United States, its biggest retail market. De Beers was convicted under the Sherman Antitrust Act for fixing the price of industrial diamonds in 1994. However in July 2004, De Beers pleaded guilty and paid a \$10 million dollar fine. In 2005, the company also settled several outstanding civil class action suits in the United States, paving the way to operate legally in the country.

Historically diamonds have enjoyed special status in many civilizations. Ancient Indian history provides some of the earliest accounts of the status and use of diamonds in religious ceremonies. But since the mid-twentieth century, clever advertising and promotion of diamonds have dramatically increased demand. De Beers can be credited with what perhaps has been the most effective long-term marketing campaign ever. The company successfully boosted demand through innovative marketing strategies. De Beers arranged for product placements of diamonds in movies and promotion through close association with celebrities, perhaps most notably Marilyn Monroe. It created the tradition of engagement rings and more recently invented products like the three-stone anniversary ring. The slogan, "A Diamond Is Forever", ensures that a secondary market for diamonds is essentially non-existent. It's perhaps most famous ad campaign are the 1990s shadow commercials, featuring black and white images and the classical tune now

more commonly associated as the diamond jingle rather than by its original title “Palladio” composed by Karl Jenkins.

De Beers’ shadow ads would become a direct target in the campaign, when Amnesty International launched its remake, which features the shadows of the brutal Revolutionary United Front (RUF) tactic, chopping off arms with machete. It quickly became clear that the image that De Beers so carefully constructed was about to be shattered with powerful associations of diamonds with blood, destruction and death. Unquestionably, the campaign benefited from the fact that diamonds are a non vital product of largely symbolic values and a problem that lent itself to sensationalized media coverage. Moreover, the high degree of market concentration also benefited the success of the campaign and the KP. As the dominant industry player, De Beers’ links to blood diamonds quickly became the focus in the emerging campaign. Especially its links to Angolan diamonds were the subject of early investigations and accusations by one UN panel and by Global Witness, a British NGO.

Diamonds: A Curse or a Blessing?

The commodity chain from ground to retailer is all but glamorous and that is true for blood and so-called clean diamonds. Diamonds are found in many places around the world; approximately 26 countries mine for diamonds worldwide. Botswana, Australia, Russia, the DRC, South Africa, Angola, and Canada are the top producers of diamonds. Globally, approximately 160 million carats, or 32,000 kg, of diamonds are mined every year (Royal Bank of Canada 2009). Of those, 30 million carats are gem diamonds. This amounts to an annual \$9 billion in industry revenues. Diamonds are found in either alluvial or kimberlite deposits. Alluvial diamonds are the result of millions of years of erosion which brought diamonds to the surface across vast areas, usually along riverbeds. Artisanal miners dig for these diamonds with basic tools such as shovels and sieves. African countries with large alluvial diamond reserves are Angola, the Central African Republic, Côte d’Ivoire, DRC, Guinea, Ghana, Liberia, Sierra Leone, and others. Kimberlite diamonds, on the other hand, are mined with capital-intensive machinery that extracts the diamonds directly from volcanic pipes. Kimberlite deposits are the source for most of the diamonds mined in the top producing countries, except for the DRC and Angola. Much of the diamond deposits, particularly kimberlite mines, are owned by states that frequently hold licensing agreements with companies like De Beers for diamond extraction. For example, DEBSWANA, the company in control of Botswana’s diamond extraction, is co-owned by the government of Botswana and De Beers. In Russia, on the other hand, ALROSA, a state-owned company, is in charge of all of Russia’s diamond extraction.

Diamonds have largely been a blessing for kimberlite diamond countries like Botswana and a curse for alluvial diamond nations like the DRC or Sierra Leone. Nations who suffered from the negative effects of blood diamonds all have

alluvial diamond deposits. Rebels frequently control alluvial diamond fields and poor artisanal diamond workers are easily recruited for rebel armies or to sell the diamonds they find to regional warlords. Kimberlite mines on the other hand are more easily regulated with stable ownership by states and private enterprises, contained and controllable sites, salaried employees, and anti smuggling infrastructure, like x-ray machines. The type of industry and extraction goes to the root of the conflict diamond problem and without adequately regulating artisanal diamond mining, the volatility for conflict remains (PAC and Global Witness 2004). Chapter 5 in this book revisits the most recent efforts by civil society, states and industry to address these underlying causes.

Angola's civil war plagued the country since it gained independence from Portugal in 1975 (see Collier and Dietrich 2000). During the cold war, the Soviet Union funded the Marxist MPLA government of Angola, while the United States supported the UNITA rebels and their leader, Jonas Savimbi. After the cold war ended and alternative sources of funding dried up, UNITA increasingly funded its war effort through the trade of diamonds. It is estimated that UNITA controlled 60 to 70 percent of Angola's diamond trade between 1992 and 1999, which translated into \$3.7 billion in income (Global Witness 1998). The war came to an end when a ceasefire was brokered in 2002.

In Sierra Leone, the RUF waged a brutal civil war from 1991 to 2002. The RUF's tactics included amputating limbs and the use of child soldiers. The trade in diamonds funded the ongoing war, which killed an estimated 75,000 people. Liberia's Charles Taylor, who took power amidst Liberia's civil war (1989–2003), sponsored the RUF in an attempt to destabilize his neighbor. Taylor provided the RUF with weapons and training in return for diamonds. Taylor is currently standing trial in The Hague for crimes against humanity. Liberia is now led by the first female president in Africa, Ellen Johnson Sirleaf, who was democratically elected in 2005.

The DRC (former Zaire) experienced multiple civil wars in the 1990s and has suffered the greatest death toll, approximately 4 million lives. Diamonds were among the resources (including coltan and cassiterite) that fueled various factions in the fighting. Most recently, conflict has flared in the Goma district in eastern DRC, where Tutsi rebel leader General Nkunda led its force against the government and Rwandan Hutu army members who fled to that area of the DRC after the genocide in Rwanda in 1994. The various factions in this conflict too have been funded in part by diamonds.

Thus while some of the extensive civil war fighting funded through the diamond trade has come to an end, new conflicts involving diamonds have emerged more recently. Côte d'Ivoire's civil war started with a coup in 1999. Ivorian diamonds are currently under UN sanctions because the Forces Nouvelles, a rebel group, is under control of the diamond-rich northern area.

The Global Diamond Trade: Now and Then

The horrific impacts of blood diamonds throughout the 1990s seem quite clear now, yet the problem of conflict diamonds remained largely ignored for many years. Then, in 1998/1999, efforts in the UN and by two relatively unknown NGOs, Global Witness and Partnership Africa Canada, unveiled the issue and catapulted it onto the radar screen of numerous states, NGOs, and diamond companies. The symbol of love, purity, and eternity became increasingly linked to war, destruction, and gruesome images of children with chopped-off limbs. By mid-2000, conflict diamonds had been established on the global agenda as a social problem. The issue regularly made front-page news.

What resulted from this campaign, was an unprecedented move toward regulating an entire industry. This is not only astounding for an industry that has been renowned for its secrecy and lack of oversight but it also a significant anomaly in a decade squarely rooted in trade liberalization.

In May of 2000, South Africa, Namibia, and Botswana (three of the largest diamond exporters) initiated informal talks with Britain, the United States, and Belgium (three of the largest diamond traders and consumers) in Kimberley, South Africa, to deal with the blood diamond controversy. NGOs and industry were also invited to what has become known as the first Kimberley Process (KP) meeting. The tripartite talks expanded to include many more states. In less than three years, negotiations resulted in the adoption of the KPCS (January 2003). Today the agreement regulates about 99 percent of the global rough diamond trade. The agreement is far reaching, imposing rules on a previously unregulated industry and allowing only signatory countries to import or export diamonds.

The KP is unique in several ways. First, KP negotiations led to an agreement in record speed compared to other global accords. Second, the KPCS is a voluntary certification process established outside of traditional international legal avenues, i.e., through treaties or the United Nations. Third, the KP participation of states, industry, and NGOs is unique and unprecedented. What led these actors to pursue solutions on conflict diamonds in a tripartite setting? The willingness of states to participate in a decision-making process which included NGOs and industry is puzzling. I explore these unique characteristics of the KP. Specifically, I explain the extent and process of NGOs' influence over states, the industry, and the KP.

The KPCS has been accredited with curbing the trade in conflict as well as other illegitimate diamonds. Conflict diamonds made up an estimated 15 percent of the global diamond trade in the 1990s. With the KPCS, this number has dropped to under one percent today. Despite its achievements there are important weaknesses in the system and Chapters 5 and 6 further detail the successes and shortcomings of this transnational agreement. NGOs have been important in speaking out about the KP's ineffectiveness in responding to clear evidence of KPCS violations in several of its member countries including Brazil, Côte d'Ivoire and Ghana, Lebanon, Guyana, Venezuela, and most recently, Zimbabwe. Moreover, now that the diamond smuggle has been curtailed, rebels seek other funding opportunities in

the areas of animal trophies, the drug trade, and other highly desired commodities like coltan. Diamonds are not the only natural resource that has been associated with conflict and civil war or more generally with threats to human security. In fact, there has been a burgeoning literature on the links between natural resource trades and warfare (Ballentine and Nitzsche 2005; Ballentine and Sherman 2003; Bannon and Collier 2003; Humphreys 2005; Ross 2004). Better understanding how diamonds were regulated will shed light on innovative global governance strategies that may resolve new challenges in the twenty-first century.

Analyzing Global Campaigns and Tripartite Relations

The blood diamond campaign and the Kimberley Process manifest critical elements of the globalization process that transformed how political, economic, and normative change occurs. Specifically, non-state actors, civil society and transnational corporations (TNCs) specifically, have grown in importance as significant global actors. TNCs economic strength especially *vis-à-vis* states has been an important focus of activists and has been the focus of various globalization scholars (Rodrik 1997; Strange 1996; Sklair 2002). Numerous works have analyzed how transnational activism, and NGOs in particular, affect state behavior, focusing on changes in domestic policies (e.g. Khagram et al. 2002; Risse et al. 1999; Khagram 2004; Brown et al. 2000; Finnemore 1996; Klotz 1995; Keck and Sikkink 1998). Some scholars have also examined how NGOs affect global agreements, intergovernmental organizations (especially the UN), treaties and international law, as well as global normative or cultural processes (Price 1998; Smith 1999; della Porta et al. 1999; Khagram et al. 2002; Willetts 1996; Clark et al. 1998). While these works focus on how NGOs influence policy change at the national and international official levels, fewer studies have examined how NGOs affect TNCs. Some studies have analyzed campaigns targeting particular companies (e.g., Nike, Starbucks, and Shell) with various thematic foci (environment, human rights, working conditions, indigenous rights), while a few other works have looked at particular industrial sectors and their regulation (see e.g., Taylor 2004 on the timber and coffee trade). It is, however, particularly interesting to analyze how transnational activism challenges global economic processes or TNCs. For instance, NGOs cannot use the same practices and tactics with TNCs that they use when targeting states or other more centralized institutions (e.g., the World Bank or WTO). In addition, TNCs are powerful actors; many have larger annual revenues than the GDP of most states. Thus, this case study offers a new way to analyze the role of NGOs in global politics outside of the usual context of intergovernmental organizations or transnational activism targeting states. Analyzing how a transnational campaign unfolds, focusing on NGOs, states, and TNCs, offers important insights into complex global political processes, including the changing interactions of those actors.

Despite a burgeoning scholarship on globalization, little is known about the motivations and conditions that lead conflicting and seemingly dissimilar actors to

collaborate in building global solutions. I conclude that while the global cultural environment has empowered NGOs *vis-à-vis* firms and states by legitimating their participation in joint solution building across a range of issues, their effectiveness depends at least in part on their ability to translate cultural principles into potentially substantial material costs that firms and states are not willing to bear.

The book traces the role of global actors, including states, NGOs, transnational corporations (TNCs), and intergovernmental organizations (IGOs, particularly the UN) in putting conflict diamonds on the global agenda, deciding on solutions, and implementing a global agreement. I investigate how tripartite (state, NGO, TNC) relationships progressed by developing a dynamic life course model with four campaign stages: agenda-setting, decision-making, implementation, and revitalization.² I place particular emphasis on how NGOs influenced the agenda-setting process, decision-making in the KP, the implementation of the KPCS, and the revitalized actions taken to ensure the KP's continued effectiveness and to address other pressing social problems related to the diamond industry.

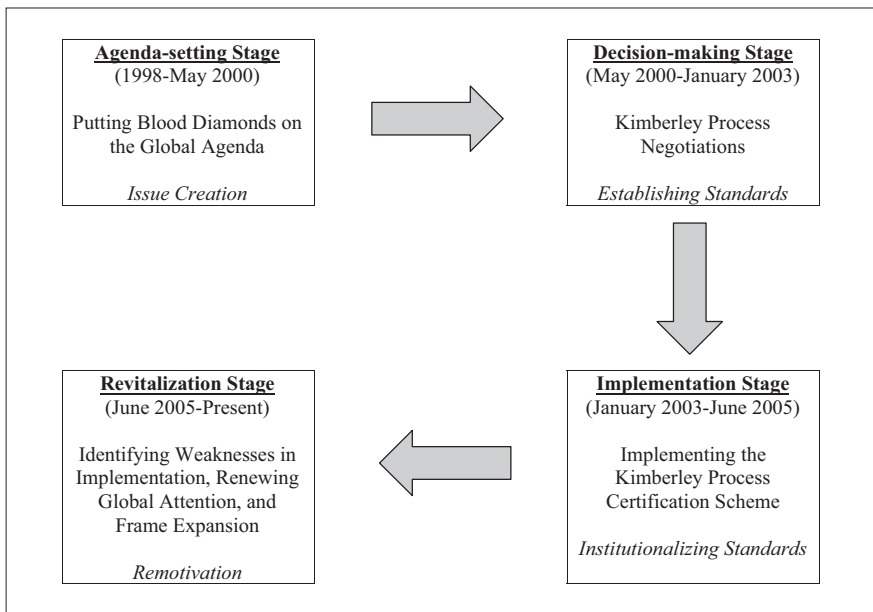


Figure 1.1 The dynamic life course model

2 The dynamic life course model of global campaigns theorized in this book builds on state-level life cycle models of policy processes (Kingdon 1984; Hill 1997), domestic social movement theories (McAdam 1999), and international norm development literatures (Finnemore and Sikkink 1998; Risse et al. 1999).

While NGOs are most frequently credited with putting certain problems on the international agenda, I find that important actions in the UN, by some states, and by a few industry organizations helped spur interest in the problem of blood diamonds. Decision-making and implementation, processes that are often assumed to be the exclusive provenance of nation-states, were characterized by tripartite participation. Reasons for this openness can initially be found in states' quest for legitimacy and expertise, which came from non-state actors. Initially halting and distrustful tripartite interactions soon transformed into genuine working relationships that fostered mutual respect and a sense of the indispensability of all participants. Moreover, these relationships and experiences carried over into other campaigns and have crucially shaped new initiatives on artisanal mining and development, corruption, and fair trade, to mention just a few. I will now elaborate in further detail on the theoretical construction of this dynamic life-course framework by detailing at each stage.

Agenda-Setting

Every campaign begins with attempts to bring attention to and increase concern about a new or neglected issue. I call this the agenda-setting stage. While my case study includes activities at several levels of politics (local, national, international, and transnational), my central concerns are the international and transnational levels. The question is how NGOs and other actors set the global agenda, which we can think of as a diffuse, decentralized set of agendas of prominent global actors and observers. Various actors participating in the global political process – NGOs, states, TNCs, intergovernmental organizations, the media, even individuals – may make an issue a priority or push to make it the priority of other actors.

I seek to explain why states, NGOs, or TNCs take the lead in setting the global agenda. Several works have discussed the important role played by NGOs, some states, and other “norm entrepreneurs” in bringing various issues to the fore on the global agenda (see Risse et al. 1999 on human rights, Keck and Sikkink 1998 on various issues, Johnson 2000 on nuclear arms control, Price 1998 on landmines, and Corell and Betsill 2001 on the environment). Keck and Sikkink (1998) have specified the particular activities and tactics transnational advocacy networks engage in to bring international attention to issues. These tactics include information gathering, framing, and attention grabbing. Factors contributing to successful agenda setting are short chains of responsibility between victim and violator, graphic images of victims, and personal testimonies. Other works focus less on setting official agendas (of states or IGOs) than on how standards and norms take hold globally and shape the identities and actions of global, national, and local actors (Boli and Thomas 1999; Berkovitch 1999; Boyle and Preves 2000). While micro-constructivist theories elaborate on how norm entrepreneurs aid in global agenda setting, macro-constructivist theories aid in understanding the cultural and normative environments that produce these entrepreneurs. My analysis of agenda setting incorporates both levels. My case study assesses the

roles NGOs, some states, and TNC representatives played in bringing conflict diamonds to the forefront of official institutions (states and IGO), as well as their dynamic interactions outside official channels that led the emergence of new norms for the diamond trade.

The first few phases of the Risse et al. (1999) spiral model of human rights norm diffusion fall within this stage, though again my focus is on transnational rather than domestic state outcomes. When state repression or, more generally, norm violation occurs, NGOs can move the process to the second phase of putting the norm violation on the international agenda – if they are capable of collecting enough information and of engaging other states by reminding liberal states of their identity. What follows in the spiral model is the denial stage, in which states deny the charges while reaffirming the validity of international human rights norms. Eventually, states may make tactical concessions to the international community. My analysis will reveal at what point in time, if at all, the targets (states and TNCs) engaged in denial or concession-making, and whether this was important for moving toward decision-making.

Decision-Making

The next stage, decision-making, involves developing solutions and establishing new standards. This activity is most frequently associated with states, but prior research suggests that many actors can be involved in decision-making. Willetts (1996), for instance, shows that while NGOs are important in setting the UN's agenda and in policy implementation, they are less important in the policy formulation process since most member states make policy decisions in their home capitals before meeting at the UN and lobbying has little effect thereafter. Thus, depending on the nature of the decision-making process (open or closed forum, majority voting or consensus-based, etc.), NGOs will have more or less influence in this stage. Therefore, in the decision-making stage, I am particularly interested in identifying factors that determine where such negotiations occur and with what outcomes.

Global decision-making can occur in various settings – the UN, the G8, the International Labor Organization (ILO), a newly created forum, and so on. If successful, the decision-making stage culminates in an agreement of some sort. Such agreements, which include international laws, treaties, and voluntary codes of conduct, vary greatly in their level of formality, authority, and level of access for non-state actors.

Implementation

The standards formulated in decision-making are implemented in the next stage, which is characterized by formalized procedures. Handbooks, directives, and meetings guide implementation. Monitoring mechanisms are put in place to ensure compliance. I explore the roles that states, NGOs, and TNCs play in

these implementation activities. NGOs are most commonly associated with agenda-setting; much less is known about their engagement in institutionalizing and bureaucratizing stages (an early effort was Willetts 1996). Smith, Chatfield, and Pagnucco (1997) discuss the importance of transnational social movements in implementing policies, and Passy (1999), in her work on indigenous people's activism, distinguishes between input (putting an issue on the UN agenda and developing an accepted normative framework about it) and output, when NGOs are involved in the actual implementation of international norms and their diffusion. These authors show that NGOs can exercise significant influence in the implementation of policies through their expertise, knowledge, and reputation for serving public rather than private interests.

The implementation stage captures the processes described in Risse et al.'s (1999) fourth and fifth phases of the spiral model, in which the norms gain prescriptive status in the target state. In those latter phases, arguments about the validity of the norm have subsided and debate centers on interpretation of the law or agreement. Other scholars stress the importance of norm resonance (how well the new norm fits existing domestic structures) for successful domestic institutionalization (see Tarrow 2001; Khagram 2004; Smith et al. 1997). My case study looks at the implementation process of a new agreement, the Kimberley Process. Thus, all KP member states are target states in which the norm may or may not gain prescriptive status. The case reveals how states differed in the speed and extent of norm implementation, whether debates emerged about interpretations of the agreement, and whether norm resonance was a relevant factor for implementation. I therefore build on Risse et al.'s (1999) spiral model by investigating not only whether moral leader states are more likely to call for norm implementation in norm-violating states but also whether they are most proactive in making the new norm prescriptive within their own borders by effectively enforcing adherence with it.

Revitalization

The revitalization stage is the final stage in the life course of a campaign. This stage is left out altogether in most studies, which end their analysis once key actors, usually states, have adopted and implemented an agreement. But campaigns do not always end with implementation. Several studies do stress the role of previous campaigns and networks as crucial building blocks for new campaigns (see Florini 2000 on Jubilee 2000 comparing itself to the abolitionist movement). Similarly, Klotz (1995) shows how the anti-apartheid movement emerged from anti-colonialization efforts. Such discussions of important precursors to campaigns reveal that a movements' lifespan, or some aspects of it, may extend beyond the successful attainment of its immediate goals.

This life course model and the case study analysis seek to identify when and how such linkages occur, as some of the campaign's activities and networks that were established in earlier stages are prolonged or reinvigorated. Previous stages

provide new targets (including the newly implemented agreement itself) and new networks. NGOs may wish to revitalize the campaign to ensure that states and TNCs implement the new standards in good faith. Also, the parameters of the initial problem may be expanded. For example, an anti-death penalty campaign that pursued a moratorium on executions of mentally challenged individuals, if successful, may go on to seek a halt to executions for all death row inmates. Similarly, movements may revitalize to apply newly created standards to other sets of problems. For example, the regulation of conflict diamonds through certificates may be applied to the trade of conflict timber. Many subsequent activities are still best understood in the context of previously established networks, institutions, and newly established norms or rules. Thus, in the revitalization stage, I am particularly interested in tracking the issues that develop out of the initial campaign or agreement. Revitalization has two aspects: (1) movement actors renewing their efforts to ensure that states and TNCs continue to comply with the norms or agreements developed in previous campaign stages; and (2) extending the new standards or norms to other issue areas. Specifically, I focus on whether states, TNCs, and NGOs collaborate in this process.

Case Study Evidence

I develop and explore these stages of global campaigns and the changing interactions between various stakeholders over the course of these stages through a case study analysis of the conflict diamonds campaign, the Kimberley Process (KP), and the Kimberley Process Certification Scheme (KPCS). Case study research can involve exploratory, descriptive, and explanatory functions (Yin 2003). While exploratory case studies focus on “what” questions, explanatory case studies answer “how” and “why” questions. My case study involves all of these types of questions. My data offer exploratory and descriptive insights, by tracking events of the conflict diamond campaign and the KP. The empirical data also offer explanatory conclusions as to why events unfolded as they did.

The evidence presented in this book is based on an in-depth study of the conflict diamonds campaign, including interviews and content analysis of relevant documents. Specifically, I conducted 24 interviews with individuals from all three sectors (state, industry, and NGO) that played important roles in the campaign or the KP.³ The interviews were conducted between May 2005 and July 2006, some

3 The following individuals were interviewed: J.D. Bindenagel (US Government, Former US Special Negotiator); A. Bone (De Beers, Head of Public Affairs); R. Dunn (Natural Resource Canada, Chair of KP WG Statistics); K. Eling (European Union, KP Chair of Monitoring); G. FitzGerald (Natural Resource Canada, Associate Director of Mining Statistics); C. Gilfillan (Global Witness USA, Campaigner); K. Hund (NIZA, Campaigner); E. Izhakoff (World Diamond Council, President); A. Jung (Medico Germany, Research Coordinator); T. Martin (Canada Foreign Affairs, Former Chair of the KP); F. Metzger

during field research in Canada, the Netherlands, and Switzerland. The sample of interviewees from the governmental sector included the former United States Special Negotiator on Conflict Diamonds, a former KP chairman, and several chairs of KP working groups. In the industry, I interviewed high ranking industry officials from De Beers, the High Diamond Council in Belgium, and the World Diamond Council (the industry organization created to address the growing concerns about conflict diamonds). Global Witness, the Netherlands Institute for Southern Africa, and Medico. The interview quotations in this book are verbatim excerpts from my personal and telephone interviews with the research participants.⁴

In addition, the study relies on the compilation and analysis of a wide range of documents covering events on conflict diamonds, the campaign, and the KP from a variety of sources, most notably from NGOs, industry, states, the KP, and the UN. Materials published by NGOs included websites, newsletters, press releases and different reports by PAC, Global Witness, Fatal Transactions, Amnesty International, and various other NGOs. I studied all documents publicly available on the Kimberley Process website from Spring 2005 to Summer 2007. Industry documents I analyzed primarily come from De Beers and World Diamond Council's websites, press releases, and industry news articles published by *Rapaport News* and *National Jeweler* magazine. I also studied conflict diamond related publications and documents by the United Nations (including Security Council and General Assembly Resolutions), think tanks, and governments (e.g., transcripts of the United States Congressional Hearings on Conflict Diamonds). Finally, the case study is informed by countless news articles obtained through Lexis-Nexis data base and general on-line searches.

Overall, my data analysis followed the usual method of case study data triangulation (Yin 2003): obtaining, comparing and contrasting evidence from a wide range of data sources, including interviews and publications of NGOs, the industry, states, international organizations, and the media. Relying on multiple sources of data is a particular strength of case study analyses because it allows for data triangulation, a convergence of various lines of inquiry (Yin 2003). This process is particularly important in revealing the role NGOs have played throughout the campaign and KP. While interviews with NGO representatives serve as an important source of information on their involvement, it is essential to learn how NGOs were perceived by state officials and industry representatives.

(Swiss Government, KP Representative); D. Ngolo Gizenga (Partnership Africa Canada, Campaigner and Consultant); A. Omar (Canada Foreign Affairs, KP Representative); J. Sargentini (NIZA, Campaigner); I. Smillie (Partnership Africa Canada, Research Coordinator); B. Taylor (Partnership Africa Canada, Director); M. Van Bockstael (High Diamond Council, Director of HRD Division); A. Yearsley (Global Witness, Campaigner).

4 Quoting research participants verbatim as opposed to presenting edited excerpts of conversations is standard practice in qualitative social scientific research. The quotations provided in this book therefore need to be read as verbatim written reproductions of conversational speech.

The combination of interviews and documents thereby enhances the validity of observations made in my investigation.

The subsequent chapters of the book are organized chronologically and each chapter is devoted to one of the campaign stages: agenda setting in Chapter 2, decision-making in Chapter 3, implementation in Chapter 5, and revitalization in Chapter 6. In addition, Chapter 4 details the Kimberley Process Certification Scheme and conclusions are presented in Chapter 7.

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Chapter 2

Agenda Setting – “A Rebel is a Girl’s Best Friend”: Creating Global Concern for Blood Diamonds

Angola: UN Sanctions and Global Witness

In 1997, the international media spotlight briefly turned to Angola’s lengthy civil war. Princess Diana, a champion in the fight to ban landmines, walked through a mine field in her visit to Angola early that year. It marked the beginning of an important year for the landmine campaign. In December 1997, 133 countries signed the Ottawa Treaty, banning anti-personnel landmines. But Angola would soon find itself as the focus of yet another campaign, this one against blood diamonds. Landmines and diamonds, both, are intricately linked to Angola’s civil war. For decades, cold war politics fueled the war, which initially began as independence struggle from Angola’s colonial power, Portugal. While the Marxist MPLA government was supported by the Soviet Union, UNITA and its leader Jonas Savimbi had the support of the United States. During the years of the civil war, while the MPLA largely funded itself from off-shore oil revenues, UNITA controlled the diamond mines.

During much of Angola’s civil war and most successfully in the mid 1990s, UNITA sought and established tight control of both formal and informal alluvial areas as well as kimberlite mines. Kimberlite diamonds are mined with capital intensive machinery that extracts the diamonds directly from a volcanic pipe. The problem of diamonds funding rebels and fueling wars largely concerns alluvial diamonds, which are the result of millions of years of erosion which brought these gems into vast areas, usually along riverbeds. Alluvial deposits are also common in Angola, Sierra Leone, the DRC, the Central African Republic, Côte d’Ivoire, Guinea, Ghana, Liberia, Tanzania, Togo, on the coast of South Africa and Namibia, and in several South American countries (Brazil, Guyana, and Venezuela). Alluvial diamond areas are frequently beyond state control as they cover vast geographical areas and cannot easily be fenced. Still, the Angolan government extended concessions for alluvial diamond extraction, with one company’s concession covering 85,000 square kilometers (Dietrich 2000: 24). Such formal, industrial extraction of alluvial mines constitutes approximately 10 percent of total global diamond production. Fourteen percent are informally mined alluvial diamonds and the remainder originates from kimberlite mines (Diamond Facts website, n.d.). The world’s fourth largest kimberlite pipe is located in Angola (Catoca Mine).

However, alluvial diamonds are frequently higher quality and more valuable in terms of their per carat value since they can be cut and polished losing less of their carat (weight).

The first UN embargo against UNITA, in 1993, slapped sanctions on fuels and arms provisions to UNITA (UN Security Council Resolution 876). This resolution was a response to the intensification of fighting: "Some of the worst fighting of the entire conflict takes place, with 182,000 people dying between May and October 1993" (Global Witness 1998: 1). In 1994 the MPLA government and UNITA signed the Lusaka peace accord. Localized fighting continued even after the peace accords, however, and UNITA continued to arm itself. No further UN Security Council interventions were undertaken at the time.

However, in 1997 UNITA intensified its violations against the cease fire and the Lusaka peace deal and the 1997 unity government collapsed. Now, in response to this resumption of the civil war and the deadline for implementing requirements of the Lusaka peace deal (e.g. UNITA disarmament and reintegration) which had been set for May 31, 1998, the UN renewed its sanctions. The UN's arms embargo against UNITA, in place since September 1993 (Res. 864), had been grossly neglected by the UN and violated by UNITA. The United Nations Security Council adopted two additional resolutions in response to the intensification of violence. In October 1997, a travel ban was imposed on UNITA members (UNSC Res. 1127). In June 1998, sanctions were imposed on specific goods and trades including Angolan non-certified diamonds, i.e. diamonds under UNITA rebel control (UNSC Res. 1173, 1176). Earlier sanctions by the UN on Angola did not include diamonds, even though UNITA had been funding its military efforts through its control of 60–70 percent of Angola's diamond sector since early 1992 (Global Witness 1998). The idea behind UNSC Res. 1173 was to allow legitimate Angolan diamonds to be sold while sanctioning only UNITA diamonds. This was the first such certification attempt regarding rough diamonds, and it would later come to shape the Kimberley Process. These efforts, however, were not successful. One major problem was that UNITA diamonds still could be bought and sold within the country, and they often ended up in export channels as certified Angolan diamonds. Furthermore, smuggling to neighboring countries was widespread. Clearly, future certificate efforts had to address many of those loopholes.

This implementation of UN sanctions specifically against diamonds can be attributed to two factors. First, increasing attention in the international community was paid to targeted, "smart" sanctions (see, e.g., the international Expert Seminar on Targeting UN Financial Sanctions, March 17–19, 1998, Interlaken, Switzerland). Second, UNITA had funded its efforts primarily from the diamond trade and the control of diamond mines earlier, during the Cold War. UNITA and diamonds were good candidates for targeted sanctions.

While the established sanctions were quickly shown to be ineffective in keeping rebel diamonds out of the market, UNSC Res. 1173 is significant in two ways. First, it was the first official United Nations document that acknowledged the role of diamonds as a source of funding for rebel forces, though it was not until

a Security Council Resolution on Liberia (UNSC Res. 1343, March 7, 2001) that the term *conflict diamonds* actually appeared in a resolution document. Second, the resolution allowed for criticism and reports of sanctions violations that would become important in creating momentum for an international campaign.

In December 1998, six months after UNSC Res. 1173, Global Witness published *A Rough Trade*, the first NGO publication of what later became known as the campaign against conflict diamonds. Alex Yearsley, a lead campaigner for Global Witness, describes the origins of *A Rough Trade*:

Global Witness was the organization that started the campaign of conflict diamonds. We began researching the issue in 1996 in Angola ... It was originally a collaborative and joint effort between another organization that we used to work with and we have very close ties to, the Environmental Investigation Agency. The three founding directors of Global Witness used to work there, and it was originally going to be a joint project. They had looked at the problem in relation to the funding of the war in Angola from animal products, from ivory and from leopard skins in particular ... the same routes that were used for the animal skins and the ivory tusks were also used for diamonds. So that’s how initially we got into it (Alex Yearsley, Campaigner Global Witness, phone interview, October 5, 2005).

While the final report would focus only on the commodity of diamonds and further collaboration with the Environmental Investigation Agency ended, it is noteworthy that Global Witness found its way to conflict diamonds via the trade in animal trophies. Global Witness had already established a reputation as a leading NGO expert on the link between natural resources and conflict with its investigations and reports on the Khmer Rouge and timber in Cambodia. Yearsley describes its reputation as a “reasonable and accurate” NGO:

We had quite a good reputation for being accurate, for being detailed with our information, and being reliable. But also not being sensationalists ... So in Cambodia we were not seen as just a green organization. We were seen as an organization that could present recommendations that would take into account the realities on the ground. We weren’t saying don’t cut down the trees, which we would have liked to, we were saying yeah, you have to cut them down but ... do it in a way that’s transparent so that the country gets the money for the treasury. And so we were seen as people that could be worked with (Alex Yearsley, Campaigner Global Witness, phone interview, October 5, 2005).

Although Global Witness continues to this day to investigate and publish on issues of timber in Cambodia, with the end of Cambodia’s civil war in 1998 the organization was ready to take on a new focus. This was confirmed in an interview with Global Witness: “We had our main campaign on Cambodia and timber. And we wanted to expand it to some other campaigns, so we were working on the

diamond issue. But also at the same time we had begun working on the issue of oil and corruption in Angola” (Alex Yearsley, phone interview, October 5, 2005). With the intensification of Angola’s civil war at that time, Global Witness started its research on the role of natural resources in fueling the war.

A Rough Trade documented violations of sanctions against UNITA and implicated De Beers and several trading states, most notably Belgium, in trading Angolan rebel diamonds. In its accusations against De Beers, the report relied on the company’s own annual reports and financial briefings that confirmed purchases of Angolan diamonds. Global Witness wrote that the link between UNITA and diamonds had already become an internationally accepted fact. The report’s significance was therefore not due to any new information it presented. The report’s accusations against De Beers were not novel or the work of independent investigations. Human Rights Watch’s (HRW) *Angola Report* in 1994 had already reported on De Beers’ purchases of Angolan rebel diamonds and De Beers’ own annual reports acknowledged these purchases.

The reason that *A Rough Trade* was significant and carried impact is because it emerged in the context of UN activities on Angola, including the implementation of targeted sanctions as well as investigations into the ineffectiveness of the sanctions regime. These factors provided fertile ground for the report. De Beers and Antwerp, the diamond industry’s center, were now more vulnerable to accusations of trading illegally, i.e., violating UN sanctions regarding Angolan diamonds. *A Rough Trade* was published at a time of active debate within UN circles about the ineffectiveness of Angolan sanctions. Up to this point, UN activities on Angola had been only emergency responses following flare-ups in violence, not sustained peacekeeping efforts. The UN context thus not only provided *A Rough Trade* with an audience but also meant that an institutional setting existed for continued debate, exposure, and treatment of the issue.

“Easy” Targets: De Beers and Antwerp

A Rough Trade targeted De Beers, accusing it of buying conflict diamonds in violation of UNSC Res. 1173. Fittingly, *A Rough Trade* approached the issue of Angolan conflict diamonds squarely in terms of unethical and unacceptable corporate conduct rather than as an international or Angolan peace issue. The report portrayed De Beers as a company that was irresponsible, nontransparent, and unethical. In its accusations, Global Witness invoked global norms on business practices and shamed De Beers for not abiding by these modern business principles.

Global Witness and the subsequent campaign also were able to take advantage of the centralized nature of the industry. A leading campaigner on conflict diamonds, Ian Smillie, describes the industry as characterized by two narrow funnels: De Beers and Belgium, or more specifically Antwerp. In an interview he said, “The pressure points in the industry were limited, Belgium and De Beers. You could pressure them and get them to come to the table and get them to want

an agreement. Then you know you made a lot of progress. In timber or in oil there aren’t as many narrow funnels in the business as there are in diamonds. I mean the lesson is you’ve got to find those funnels. You’ve got to find the narrow points and put pressure on them. But obviously it’s not the same in other businesses” (Ian Smillie, personal interview, July 6, 2006).

However, responses from the industry immediately following *A Rough Trade* were minimal. Neither De Beers nor the HRD (High Diamond Council), representing the Belgian diamond industry, reacted publicly to the accusations. My interviews indicate that the industry did not become engaged in the matter until later, after further developments in the UN.

Ambassador Fowler, Targeted Angola Sanctions, and the UN Panel of Experts

Global Witness was invited to an unofficial briefing at the United Nations Security Council in January, 1999. That Global Witness was invited to brief the UN Security Council is a remarkable development, illustrating the direct impact NGOs were starting to have on the issue. It shows that the Security Council recognized that this NGO could provide expertise and valuable input.

After visiting with the United Nations, Global Witness concluded that “The Findings of ‘A Rough Trade’ were firmly established on the United Nations agenda” (Global Witness website, *Chronology*, n.d.). When I asked if Global Witness was surprised by the attention that was paid to the report, Yearsley responded, “Yes, it was a huge surprise. We thought the issue obviously would get some media attention, but we were obviously surprised at the major attention it did receive. There was, unbeknownst to us, a little work being done by the Canadian Government and the Canadian UN Mission through Robert Fowler, then chairman of the Angola sanctions panel. So we had a ready and captive audience” (Alex Yearsley, phone interview, October 5, 2005). In January, Robert (Bob) Fowler, Canadian Ambassador to the United Nations, was appointed as new chair of the Angolan Sanctions Committee. This development provided a “captive” UN audience for some time to come.

While a UN sanctions committee on Angola had been in existence since 1993, it was inactive until renewed by UN Security Council sanctions in late 1997 and 1998. At that point, the Security Council refreshed its mandate for the Angola sanctions committee and appointed new members. During Canada’s two-year term on the United Nations Security Council (1999/2000), its ambassador Robert Fowler took leadership of the commission. Canada’s and Fowler’s priorities during these two years in the Security Council “revolved around issues of human security, such as the protection of civilians in armed conflict, war-affected children, conflict prevention, peace-building, mass refugee flows, illicit small arms trafficking, gross human rights abuses, and failures of governance and the rule of law. Canada also played major role in improving the effectiveness of sanctions, especially in Africa, and in promoting changes to the Council’s working methods intended to

improve its transparency and accountability to UN members” (Canada Foreign Affairs, n.d.).

Fowler was not only committed to human security issues in Angola but also sought to make targeted sanctions work. Canada and other countries were increasingly calling for smart and targeted sanctions that would not hurt entire populations but were intended to be as narrow and effective as possible. This motivated and guided Canadian involvement on the matter of Angola: “In order to end this war, sanctions have to be robust and have to be properly implemented and monitored. And this work evolved from that” (Abdul Omar, Foreign Affairs Canada, interview, May 6, 2005).

Canada’s leading role in setting the (UN) agenda on conflict diamonds is thus best understood in terms of its goal of pursuing human security issues and promoting fairer sanction regimes, pushed by its highly committed representative, Robert Fowler. Its role as Security Council member facilitated the pursuit of these goals.

Fowler formed a panel of experts in May 1999, to assess the effectiveness of the Angola sanctions and the link between diamonds and conflict. The panel produced the widely publicized Fowler report one year later, which served an important function in terms of raising awareness about the sanctions and about conflict diamonds.

Perhaps most important, the UN investigations raised awareness in industry circles. In his investigations, Ambassador Fowler met with Nicky Oppenheimer (Chairman of De Beers) and Gary Ralfe (Managing Director of De Beers) in London and Johannesburg in May and July 1999. In fact, it was the investigations by Fowler and not the Global Witness report that initially alerted the industry that the days of “doing business as usual” were numbered. Mark Van Bockstael, head of the HRD in Belgium, recounts the first events that brought the conflict diamond campaign to the industry’s doorsteps:

Well that was a very, very harsh wake-up call. I remember it very vividly. I was coming back from summer holidays the first week of September of 1999. And just the last week previous to our holiday season, that is the last week of July, there was a visit of a certain ambassador, Robert Fowler, to Antwerp. And well it took about, I think it took a few weeks for most people to realize exactly what kind of content he was actually bringing to us. And the comment was quite simple: ‘Have you been doing enough to implement the United Nations Security Council sanctions on UNITA Diamonds?’ ... That’s how we got into the picture (Mark Van Bockstael, HRD, phone interview, September 27, 2005).

Thus it was Fowler and UN investigations into the industry’s compliance with UN sanctions that was remembered by Bockstael as the “wake-up call”, not the Global Witness report. When I asked when the negotiations with Fowler and the UN were joined by NGOs, Bockstael answered:

Oh that was still quite some time off. We had, the most difficult period for all of us I think, well for all of us in Antwerp at least, because we felt that we were mostly targeted by the sanction team of Fowler. And that was the period between September of 1999 and I would say April of 2000 ... The NGOs were already involved in the sense that the first reports on the UNITA situation in Angola had come up already in December, 1998 by Global Witness, which was then you know ‘The Rough Trade’ ... these are the first steps into a campaign if you want. There wasn’t a [industry] response at that time, or at least the response that we had was very, very, very, very different and there was no unified situation at all (Mark Van Bockstael, phone interview, September 27, 2005).

Thus, the industry did not react to the NGO report and Antwerp felt disproportionately targeted, not by the Global Witness report but by the UN Fowler team. Similarly, De Beers described its initial dealings on the matter of conflict diamonds with reference to the United Nations, not Global Witness. A De Beers official recalled the company’s first encounter with Global Witness: “In December, 1998 a small NGO based here in London called Global Witness asked if they could come and see us and we had no idea what they wanted at the time. They came in. We gave them a briefing on De Beers and its place in the diamond industry. A few weeks later they published the report, *A Rough Trade*, which was really I suppose the first time in writing the manifestation of the issue of what we now know as conflict diamonds” (Andrew Bone, De Beers, phone interview, July 7, 2005). But when I asked him if the problem of conflict diamonds was perceived as requiring action by De Beers around the time of that publication, he answered, “At that time already we had been for several months working with and cooperating with the United Nations”. Again, the interview suggests that De Beers’ agenda was initially set by United Nations actions on Angola sanctions, even preceding Fowler’s investigative efforts, not the Global Witness report.

In response to UN investigations into Angola sanctions, De Beers had to reveal its rough diamond purchases from Angola. “De Beers itself admitted to the panelists, it had received parcels of diamonds coming from UNITA-held areas and processed them into the international market” (Institute for Security Studies 2005). In a later statement De Beers would justify its Angola diamond purchases as follows: “De Beers makes no secret of the fact that during this period it purchased Angolan diamonds on the outside market, although it never at any stage bought diamonds from UNITA itself. These purchases were made in good faith and under normal and customary market terms. At no time did De Beers attract criticism from the United Nations for its activities, nor did it receive censure from other organisations or commentators. In fact, at no time did the UN, which was monitoring the peace process, suggest that UNITA was using its diamond funds to re-arm” (De Beers written testimony, US Congressional Hearing, May 9, 2000).

Only in October 1999, did De Beers announce that it would stop buying Angolan diamonds altogether. “Fearing the backlash, diamond giant De Beers adopted an ‘ethical’ stance, rejecting ‘dirty blood diamonds’; but significantly

only after 1999 and following the intervention of the Panel of Experts” (Institute for Security Studies 2005). Again, UN actions are credited with shaping the early international debate on conflict diamonds. However, De Beers’ announcement must be understood in relation not only to the UN but also to increasing NGO activities on the matter in 1999. More and more NGO activities increased the pressure. A Canadian based NGO was researching the role of diamonds in the war in Sierra Leone while in Europe a transnational campaign called Fatal Transactions was in the making. These activities would become crucial in expanding the link between diamonds and conflict beyond Angola and De Beers, making conflict diamonds a global social problem requiring action by the entire diamond industry and diamond trading nations.

In conclusion, the emerging NGO campaign against conflict diamonds and the UN Angola sanctions activities were mutually reinforcing and supportive. “The impact of the Panel of Experts on Angola was dramatic. The investigations by the UNSC instrument also coincided with the international campaign against ‘blood-diamonds’, whereby diamonds were now the currency that continued to fuel the conflicts in Africa” (Institute for Security Studies 2005: 112). The NGOs confirm this key interaction between UN activities and the campaign. “We took that [*A Rough Trade*] to the United Nations Security Council in January 1999, and from there the campaign really took off” (Alex Yearsley, phone interview, October 5, 2005). Another campaigner said, “You know there was a conversion of several activities which the NGOs took to the forefront and made sure that it resulted into something that is today known as the KP” (Dorothee Ngolo Gizenga, phone interview, May 5, 2005). Both NGO campaigners stressed the fact that NGOs brought the topic to the attention of the UN. It is difficult to say whether UN activities would have continued had NGOs not picked up the issue and continued to press to put conflict diamonds on the international agenda, but it is clear that the UN provided a receptive context and was crucial in setting the industry’s agenda in this very early stage of the campaign. However, the central debate on the matter started increasingly to shift away from the United Nations into other, less centralized global fora.

The Importance of Political and Cultural Opportunity Structures

A Rough Trade by Global Witness (1998) emerged in a conducive environment, particularly with regard to UN circles. Specifically, increasing interest in targeted sanctions (embargos on specific resources) among UN policy makers informed the diamond embargo on UNITA (UNSC Res. 1173). Angola was a suitable “test case” for targeted sanctions, as it had been clear for some time that UNITA funded itself through the trade in diamonds. The specificity and ineffectiveness of this resolution, however, invited criticism from both within the UN and from NGOs. Overlapping events within the UN on the matter on Angola, and early NGO research and campaign efforts, constituted a kind of “critical mass” that started to move conflict diamonds into global discourse. Several factors led the UN to

pay closer attention to the conflict diamond issue. Most important, the evidence points to two factors: institutional interests in “smart” sanctions as a global policy tool and the presence of two specific states in the UN Security Council, Brazil and Canada. Brazil’s concern for Angola reflected the countries’ shared language and history as former Portuguese colonies. Canada’s priority for its Security Council term was fostering peace and human security in Africa. These factors made for a conducive environment for Global Witness’ 1998 report, ensuring that it would not fall on deaf ears.

Thus, the opportunities and events unfolding in the UN support the rational actor framework as follows. First, they reflect the importance of states as allies in a campaign. Of particular importance was the fact that several Security Council members were willing to take on the issue, most notably Brazil and Canada. Second, the UN, specifically Fowler’s Panel of Experts, was crucial for getting conflict diamonds on the agenda of the diamond industry, especially De Beers. While the company did not pay close attention to the Global Witness report, Fowler’s accusations that De Beers had violated UN sanctions served as a wake-up call. Claiming illegal rather than just illegitimate activity clearly was a material threat that fits the rational actor approach.

However, some countries’ involvement clearly went beyond geopolitical and trade interests. Canada’s involvement was consistent with and built on its broad foreign policy goal of promoting human security and peace-building in Africa, and with its narrower goal of applying smart sanctions that would not hurt the general population. Ambassador Fowler’s involvement, as well the funding Canada provided to PAC’s research on conflict diamonds, occurred through the Canadian Foreign Affairs Department; it did not involve the Canadian Natural Resource Department, which would have signaled trade or economic motivations. These developments lend support to the cultural constructivist prediction that states more deeply immersed in the world polity would lead global agenda setting. Greater immersion in the world polity leads to adopting and acting in accordance with global principles of the value of all human life, the obligation to alleviate the suffering of the less fortunate etc.

NGOs Taking on Conflict Diamonds

A group of concerned Canadians called “The Sierra Leone Working Group”, alarmed about the increasing levels of violence in Sierra Leone, met regularly in the Partnership Africa Canada (PAC) offices in Ottawa, Canada during late 1998. In our interview, Ian Smillie described how his and PAC’s involvement on conflict diamonds started:

It was sort of almost accidental. I had been a school teacher in Sierra Leone in the 1960s as a Canadian volunteer and I actually taught school in the diamond area and as the war got going in the 1990s, it got worse and worse and worse

in Sierra Leone. I hadn't been back to Sierra Leone for years but I always liked Sierra Leone and I couldn't understand why this war was only getting worse, worse and worse and nobody was doing anything. The UN was not interested. Nobody was interested and I wrote a paper, an editorial, an op-ed piece for one of the Canadian newspapers about Sierra Leone's forgotten war and a Sierra Leonean student, a master's student, no he was a PhD student at the University of Toronto. He had been a journalist in Sierra Leone. He called me and said he liked the article. Could we meet sometime? ... And we met and sort of talked about things. We had a little working group here that met at the PAC office. I was working as an independent consultant and writer. I didn't work for PAC. But we were meeting in their office to talk about Sierra Leone and we called it the Sierra Leone Working Group and they were mostly people like me. There were a few ex-volunteers. They were some Sierra Leoneans-Canadians and some others that were just concerned. So there were about eight or nine of us (Ian Smillie, personal interview, May 4, 2005).

The group was unaware that, in the meantime, Global Witness was writing up its report on Angola. The focus of the group was on Sierra Leone; diamonds entered the picture only later on:

On one day, I think it was 1998 or 1999, one of the Sierra Leoneans said this war is really all about diamonds and until something is done about the diamonds it will never be over. And I just thought, you know, it's like a light goes off in a dark row and suddenly, suddenly, I said, Of course, of course, of course, I mean the rebels are always swarming all over the diamond areas, they don't go much further than that. They have trouble going much further but those areas they hang onto and, you know, I knew enough about diamonds from living there to know that it is easy to get a hold of and then easy enough to move them off to Liberia. And because my time is my own I said why don't we do a little study on this and I asked Lance, this Sierra Leonean guy in Toronto, and another fellow here Ralph Hazleton who had just had a quadruple heart bypass and had retired but was bored with being retired. He has a PhD in Economics. I asked the two of them if they would be interested in working on this and they both said yes. We got a little money. I think we asked 15 NGO's to give us \$2,000 each which they did and we got a match from Peace-building Fund at the Department of Foreign Affairs so we paid ourselves for nine months, we paid ourselves \$5,000 each and the rest of the money was for travel, printing and publicity. We put a lot of effort into publicizing. So that was 'The Heart of the Matter'. That's how it happened and we made our purpose in looking at the diamonds wasn't about diamonds, it was about the war in Sierra Leone. We had no interests in diamonds so we saw the diamonds as the trump point. If you can do something about this then you could stop the war perhaps (Ian Smillie, personal interview, May 4, 2005).

The group’s focus on Sierra Leone led to the topic of diamonds, through which it learned about Global Witness. When *A Rough Trade* was published, Smillie and his co-authors were still in the middle of their research on Sierra Leone. The group contacted Global Witness but closer exchange or collaboration was yet to come. The Sierra Leone Working Group brought the research on Sierra Leone and diamonds to PAC, through which “The Heart of the Matter” was officially published. Smillie also mentioned that the Canadian Department for Foreign Affairs funded the study. Canada’s support for this report and its important role with regard to targeted sanctions through the work of Ambassador Fowler in the United Nations, were clearly significant factors in the agenda-setting stage.

Canada’s involvement must be understood in relation to its broader foreign policy focus on human security, pursuing peace on behalf of civilians affected by violence rather than worrying narrowly about threats to states, and its vision for a new diplomacy that includes nongovernmental actors. The success of the landmine campaign had helped shape and reinforce this vision, prompting Canada to take an active position on the matter of conflict diamonds “By seeking partnerships beyond traditional coalitions of states, Canada has helped legitimize the participation of civil society and NGOs in the policy process. These organizations usually have greater leeway than states to speak out and take action, and are, therefore, more able to push specific agendas. The internationalization of conscience by these new actors has been an instrumental tool in the development and promotion of the human security agenda” (Axworthy 2001: 5).

Fatal Transactions

Meanwhile, a German NGO, Medico International, invited Global Witness, the Netherlands Institute for Southern Africa (NIZA), and NOVIB (a Dutch member of Oxfam), to a meeting on conflict diamonds at its headquarters in Frankfurt in the spring of 1999. This meeting marked the beginning of what would become known as the Fatal Transactions public awareness campaign, which was officially launched on October 3, 1999.

For each organization present at the initial meeting, conflict diamonds filled a significant void. Global Witness had worked on Cambodia, a civil war that had come to an end. Medico was previously closely involved in the campaign to ban landmines, which was nearing its end. For NIZA it was time to redefine its organization as a post-apartheid NGO: “We started out in the sixties as the Angola Committee, so for us it was back to the roots, back to the issue of the war in Angola. That’s where most of the NGOs, it didn’t start out with the DRC. I don’t think we knew where Congo was situated in 1999. Congo is not a front-line state in the apartheid struggles. For us it was Angola and also has never really been Sierra Leone, Liberia cause that’s not southern Africa. So for us it was a way to get back to the issue of war in Angola and look through the economic glass to that war” (Judith Sargentini, NIZA, interview, July 18, 2005).

Fatal Transactions discussed widening its focus beyond diamonds to include other natural resources like oil and timber, but conflict diamonds took center stage. “Sometimes you know the campaigners call it a sexy issue. And it seems what makes it sexy is that something that is connotated with romance, you know eternal love, marriage, all these very romantic issues are suddenly confronted with wars, child labor, child soldiers you know. Cutting off hands in the war in Sierra Leone and very brutal events taking place at the same time. Now when you go to a fuel station with your car it’s not very romantic, that’s all you’re going to know. It’s not necessary to care where the oil comes from and that the oil trade also finances very brutal wars. But the diamonds were connotated in such a different way that we thought that this might be the plan that makes it possible to interest the general public for the issue. And on the other hand might be a good measure to put pressure on the industry mainly De Beers. Because De Beers lives from their own image” (Anne Jung, phone interview, June 29, 2005).

Shift Towards Grassroots Public Awareness Campaign

Fatal Transactions marked a shift to a broader approach to conflict diamonds, beyond Angola and beyond the trade in rough, unpolished diamonds. Rather than focusing on De Beers’ corporate codes of conduct, Fatal Transactions focused on the “right to know of consumers”, thus targeting the retail end of the diamond industry. Fatal Transactions moved toward a public campaign of awareness raising, while the publication *A Rough Trade* was primarily targeting policy makers in the United Nations, some states, and the public relations offices of major industry players. After its official launch in October 1999, one of the first activities of this awareness-raising campaign was distributing information on conflict diamonds to jewelry retailers and journalists, wrapped in jewelry gift boxes.

Two days after the launch, De Beers announced that it would no longer purchase Angolan diamonds, not even non-sanctioned Angolan state certified diamonds. The timing of this announcement, immediately following the publicized launch of Fatal Transactions, was interpreted by NGOs as a direct response to the campaign. While at first sight this reaction appears to be a calculated response to the campaign, it is unlikely that within this short time period De Beers was able to assess the potential costs of a consumer awareness campaign. De Beers’ reaction is better understood in the context of its existing restructuring plans. The company had seen its market share dwindle in the last quarter of the twentieth century. Besides significant changes brought upon the dismantling of Apartheid South Africa which complicated relations with De Beers’ South African arm, Anglo American, competition increased dramatically. More diamonds were discovered in Russia, Canada, and Australia. In addition illegitimate diamonds flooded the market which De Beers so carefully sought to control. In efforts to buy up the supply by the competition and retaining market control, De Beers dramatically increased its stockpile which was estimated at \$4.8 billion in 1998. But this open market buying spree discontinued being De Beers’ strategy. Most importantly, this change of

heart was the desire to dismantle the company’s image as a monopole and instead become seen as a market leader. De Beers had hired a prominent consulting firm to work on this image recreation before the blood diamond campaign took hold. In light of growing competition, De Beers needed to build closer relations to the people it sells the diamond to. However, that was difficult to achieve as a company banned under antitrust law from doing business in its biggest market, the United States. Appeasing the United States Department of Justice required shedding the monopoly image, which in turn required disposing of the massive stockpile. The *New York Times* called the De Beers’ stockpile a “costly albatross”: “There was another long-range motive: a more open and competitive image would help the company convince regulators in the United States, who have accused De Beers of fixing the prices of industrial diamonds, that it no longer runs afoul of antitrust laws. Until it does, De Beers cannot set up American operations to fully exploit its brand name in the world’s biggest retail market for polished stones” (*New York Times*, August 22, 2000). By 2001, De Beers managed to reduce the stockpile to \$2.7 billion, a reduction that was facilitated by strong demand in America and Western Europe.

While some industry actors in Antwerp, London and Southern Africa grew increasingly concerned about the issue, large segments of the industry were still oblivious, as my interview with industry leader and future CEO of the World Diamond Council Eli Izhakoff shows.

So when it started in the year 2000, basically, the industry was not aware of everything that was going on because everybody was minding their own business. Our industry is very different than many others. I mean people are very busy making money and everybody, most of them are very legitimate and honest people, who we deal with each other with a shake of hands. We don’t have any contracts or ... Our transaction is just by the sheer name and background, integrity and morality. When this thing came about, you know, you might have read one small little article in the back page of the *Times* or in other magazines there was some stories about Sierra Leone, etc. Nobody ever attached it or had any clue in the industry that we might do something in order to eliminate this thing because we think we have the power to do that ... I myself as the Chairman of the World Diamond Council never heard about the name conflict diamonds and the diamonds were tainted. When I was first approached about it to lead this thing, it was the first time I had ever heard about it ... And if I didn’t know about it as a leader and I’ve been President then of the Diamond Exchange in New York, President of all the diamond exchanges in the world and have a variety of jobs ... I’m sure that most of the people didn’t hear about this problem. Be as it may the civil societies and NGOs of course brought it to our attention (Eli Izhakoff, phone interview, June 24, 2005).

This statement reveals several facets of the industry’s reactions. Izhakoff stresses that the industry was unaware of the problem. But the claim of being unaware

becomes increasingly problematic with a more widely publicized campaign on consumer awareness. While acknowledging the horrific wars and the fact that diamonds funded the wars, the industry now started to deny responsibility. "The industry kept denying that they had anything to do with conflict diamonds. They say that diamonds don't kill people but weapons do. So they were trying to always point the finger somewhere else. But they quickly understood that unless they were involved, the industry would suffer if they were not involved in participation and all of that" (Dorothee Ngolo Gizenga, PAC, phone interview, May 5, 2005). At least some in the industry started to react.

A Fine Line: Consumer Awareness or Boycott?

The Fatal Transactions campaign received something of a blow when former South African President Nelson Mandela released a press statement in November 1999, on the potential harm the campaign could do to the economies of southern Africa. "The diamond industry is vital to the southern African economy. Rather than boycotts being instituted, it is preferable that through our own initiative the industry takes a progressive stance on human rights issues" (cited on Diamond Facts website, n.d.). Fatal Transactions responded that, rather than a boycott, it was conducting a consumer awareness campaign. But both the industry and NGOs realized that it was difficult to raise the awareness of consumers without harming demand. While the product lent itself to a consumer campaign, the economic reality of the diamond trade as an important source of income for many poor Africans did not.

Especially in southern Africa, concerns grew over an outright diamond boycott. Within the Southern African Development Community (SADC) region, officials and multinational corporations with business interests elsewhere in the region rushed to disassociate themselves from their illegal activities with UNITA. With an increasingly public campaign about consumer diamonds, southern African businesses and states saw important revenues threatened. "Especially the governments of South Africa, Namibia and Botswana ... had identified that something had to be done to safeguard their revenue, especially to make sure that the blood diamond issue was not going to taint all diamond production from states that had nothing to do with wars and situations where diamonds were actually fueling conflict" (Mark Van Bockstael, HRD, phone interview, September 27, 2005).

The "Sierra Leone" Effect: Putting Conflict Diamonds on the Map

Despite the severity of the problem of conflict diamonds in Angola, it was Sierra Leone "that finally put 'conflict' or 'blood' diamonds on the map, threatening the industry with disaster" (*National Geographic*, March 2002: 28). Abdul Omar from Canada's Foreign Affairs Department describes the shift: "The idea that the

problem of conflict diamonds is not limited to Angola was emerging and we have seen basically Sierra Leone in the picture. And that demanded global attention to the issue as a whole rather than addressing one by one country” (personal interview, May 5, 2005).

The Revolutionary United Front (RUF) invaded Sierra Leone from Liberia in 1991. The RUF initially was a revolutionary movement fighting against the plundering of natural resources by elites in Freetown, Sierra Leone. But the rebellion itself turned into a struggle to get control of precious diamonds. The RUF also received funding and support from Liberia’s Charles Taylor, Burkina Faso, and Libya. In May 1997, the RUF and another rebel group, AFRC (Armed Forces Revolutionary Council), took over the government of Sierra Leone. In October the UN imposed sanctions on the military government and ECOWAS (Economic Community of West African States), under Nigeria’s leadership, sent forces that successfully ousted rebel forces from power and reinstated Mr. Kabbah as President. However, rebel fighting continued and intensified in early 1999, when more than 6,000 people died in the Freetown area alone. President Kabbah did not have any significant military forces and continued to rely on Nigerian troops to battle the RUF, who continued to perpetrate widespread atrocities. The cost of deployed troops for Nigeria was close to \$1 million per day, and with fading domestic support for Nigeria’s involvement and no significant contributions from other states, Nigeria announced its withdrawal in March 1999.

The Role of the United States in Sierra Leone

While the former colonial power of Sierra Leone, Britain, took a lead role in financing the growing UN presence in the country, the United States’ increased involvement in 1999 followed. There are mixed assessments of the extent to which the United States was willing to support the continued war against the RUF. Some argue that the United States lobbied the British government to abandon military action and instead pressured the Sierra Leonean government to negotiate with RUF. The Clinton administration feared that the Congress would not renew funding for ECOMOG (ECOWAS troops in Sierra Leone) and that even if they did, ECOMOG was not believed capable of defeating the RUF (Sieff 2001). However, after an assessment mission by US Assistant Secretary of State Julia Taft, financial pledges were made by the US and Britain: “The US was the single largest donor in response to the Sierra Leonean crisis, having contributed or pledged \$72.5 million in humanitarian and other aid during fiscal year 1998, including support for ECOMOG” (HRW 1999).

Despite these contributions, the Clinton administration lacked a clear strategy on Sierra Leone. Instead, Black Caucus members in Congress, notably New Jersey Congressman Donald Payne, took the initiative. Payne, who apparently had close relations to Charles Taylor, one of the main supporters and beneficiaries of the RUF, urged President Kabbah to sign a peace agreement with the RUF. In May 1999, Jesse Jackson was sent as United States Special Envoy to broker the peace

agreement and ceasefire. The resulting Lome Accord was signed by Kabbah and the RUF on July 7. However the terms of the agreement drew widespread criticism, including opposition from senior UN officials like the High Commissioner for Human Rights. Lome gave the RUF's leader essentially a vice-presidential position with control over the mining ministry and offered RUF fighters complete amnesty. Quickly it became evident that disarmament of RUF forces did not occur as planned and continued atrocities occurred. However, widespread media attention to the role of the US in this peace agreement did not emerge until 500 UN peacekeepers were taken hostage by RUF forces in June 2000.

In this context of an increasingly problematic peace agreement and UN negotiations that led to the biggest deployed peacekeeping force in UN history, several high-level officials from the United States and other countries visited the region. US Secretary of State Madeline Albright visited Sierra Leone as part of a six-day Africa Tour in October 1999. Her visit to the region can best be explained by the desire of the Clinton White House to show that Africa indeed was a priority on the administration's agenda. The administration's visits to the continent started with Hillary Clinton's trip to Africa in 1997, followed by Albright in 1997 and President Clinton himself in 1998. "Almost every Cabinet official was to follow suit by visiting Africa at least once during the administration" (Office of the Historian, United States Office of Public Affairs, n.d., 13th paragraph).

Albright's visit to Sierra Leone is best understood as delivering a "tough message" to abide by the Lome agreement. Albright also reaffirmed the Clinton administration's dedication to the region, in light of growing criticism by NGOs that Clinton was paying only lip service to his Africa commitment. Specifically, criticism from NGOs held that the war in Sierra Leone was being ignored while the US was proactive in Yugoslavia. HRW wrote in its letter to Albright before her trip to Africa, "The commitment to justice shown to Sierra Leone falls far short of that shown to the Federal Republic of Yugoslavia, especially Kosovo and East Timor, even though the atrocities committed in Sierra Leone match or surpass anything seen in these crises" (HRW 1999). Over the course of the civil war, 10 percent of Sierra Leoneans, 4.5 million people, fled the country, figures that far exceed figures from Yugoslavia or East Timor.

The following month, US Congressmen began to show interest in Sierra Leone, adding new political actors into the debate. Two US Congressmen, Representatives Tony Hall (Democrat, Ohio) and Frank Wolf (Republican, Virginia), visited Sierra Leone. Tony Hall took the initiative to organize this bipartisan trip. A former Peace Corps volunteer and a born-again Christian, Hall had spent much of his career battling hunger and diseases in Africa. Moreover, he was also compelled to go to Sierra Leone by a community group in his home district of Dayton, Ohio, that was active in Sierra Leonean relief efforts. In a later speech, Representative Hall argued that there were moral reasons for the US to show more leadership in ending the conflict in Sierra Leone: "The West has taken a lot from Africa over the centuries. We at least owe it to the citizens of this continent to not allow the trade in conflict diamonds to continue ... The problems of Africa, the misery of

Africa, is our misery ... for hundreds of years this continent has been exploited and the people have suffered more than anyone should have to suffer” (Statement, Representative Wolf, National Press Club, February 14, 2001).

Linking Sierra Leone to Diamonds

The role of diamonds in funding rebels in Sierra Leone was only mentioned in passing in media reports. While there were a few key media segments, most notably the CNN “Cry Freetown” documentary in February 2000, mainstream news reports did not appear until late summer. Thus public attention largely lagged increasing political attention that would be given to Sierra Leone in early 2000. Similarly, the United Nations would not impose diamond-specific sanctions on Sierra Leone until July 2000, after 500 peacekeeping troops were taken hostage. But in late 1999, the British and United States governments increasingly associated the war in Sierra Leone with diamonds. One key event creating this link was a conference on natural resources and the funding of conflict organized by Britain’s Foreign Affairs department in November 1999. “And that was probably the key, the very first one [conference] that really got things going and looked at things ... the British Government. The then State Department was very useful” (Alex Yearsley, phone interview, October 5, 2005). Of particular importance was Foreign Affairs Minister Peter Hain, who quickly took up the issue of conflict diamonds and organized the conference in November. Hain was born in Kenya to South African anti-apartheid activists and had a long history of involvement with issues of justice and peace in Africa. Hain had also made numerous visits to Sierra Leone, which led him to seek solutions to the conflict diamonds problem.

In the meantime, developments in the United States also linked Sierra Leone with conflict diamonds. Following their visit, Hall (Democrat) and Wolf (Republican), introduced the CARAT Act (Consumer Access to a Responsible Accounting of Trade), legislation that sought to require certificates of origin for rough and polished diamonds. Izhakoff describes Tony Hall’s involvement in the matter “Tony Hall was one of the first people. He was the Lone Ranger in the Congress ... when I approach other Congressman and Senators, they say he’s crazy, he’s a maverick, and things like that, you know, like they didn’t even want to pay attention to him. But we paid attention to him and I approached him and I listened to what he had to say and there were very, very few people initially that subscribed to any revolutionary move on the part of government” (Eli Izhakoff, President WDC, phone interview, June 24, 2005).

While it would be some time before Congress and US foreign policy adopted their concerns with conflict diamonds, Tony Hall and the co-sponsors of the bill were putting conflict diamonds on the agenda of the US government and the US industry. The Carat Act was significant as it was the first piece of legislation in the world (except for the UN Angola Certificate of Origins) that specifically focused on the issue of conflict diamonds. The introduction of this legislation was followed by intense lobbying efforts, the introduction of other bills, and a heightened level

of discussion and coverage of the issue of conflict diamonds in the United States. Industry representatives went out in full force to lobby against the Carat Act and it never stood a chance of passing. Hall likely did not actually expect to get the bill passed, but he wanted to put the issue of conflict diamonds on the agenda of the US Congress. Hall's spokesperson is quoted as saying, "If the industry doesn't want the Carat Act, it better come up with a better solution" (Bates 2000).

The Carat Act also provided an institutional context for NGO and industry activities in the United States. NGOs in the United States, most notably Physicians for Human Rights, endorsed this and a subsequent, revised version of Hall's bill. Their campaign activities would come to revolve around congressional activities on conflict diamonds, but these efforts did not get coordinated until May, 2000. Campaigners outside the US, Global Witness and Partnership Africa Canada in particular, did not lend their direct support or endorsement. While Hall's legislation was surely a welcome endorsement of their campaign efforts, NGOs closely involved in the campaign (none of them American) did not perceive the introduction of the Carat Act as a critical contribution to the overall campaign. Most important, they sought international solutions rather than lobbying efforts at the national level.

The Carat Act and its revised version, the Clean Diamond Act, further encouraged debate and discussion on the topic within the diamond industry. With the threat of state regulation of the diamond trade, the stakes became clearer to the previously unengaged industry. More industry players, especially in the United States, began to realize that the issue could no longer be ignored. This reaction was well illustrated in an article called "Blood Money", written in response to the launch of Fatal Transactions and the introduction of the Carat Act, by Martin Rapaport,¹ a major United States diamond dealer and influential figure in the diamond industry. He described Global Witness as a "feisty little troublemaker" with a simplistic campaign logic: "no diamond sales, no money for guns, no war". The article called upon the industry to respond to the campaign by declaring industry-wide standards and definitions about what he refers to as "war diamonds". Although Rapaport acknowledged potential harm to the industry from a consumer campaign, he wrote that of much greater concern is state regulation. He questioned the motivations of both NGOs and states in singling out diamonds rather than the arms trade and expressed outrage that NGOs and some states were defining moral and immoral industry behavior. "No one has the right to dictate morality to the diamond industry ... We should not allow political organizations to establish our moral positioning". Moreover, "we shouldn't be listening to NGOs ... Our industry is strong enough,

1 Martin Rapaport is seen in the industry as something of a maverick, due to his past efforts to commoditize diamonds and his outspoken criticism of De Beers practices. In the late 1970s he started publishing the *Rapaport Diamond Report*, which includes benchmark price lists for wholesale diamonds and served as a quite effective measure to inhibit price manipulations.

honest enough and smart enough to take the correct positions and enforce them through our trade organizations”.

Interpreting the Sierra Leone Effect

While the United Nations Sanctions Committee on Angola ensured that the issue would stay on the UN agenda for some time to come, the expansion to Sierra Leone prompted more state and industry representatives and NGOs to push to get conflict diamonds on the global agenda. Thus, while the link between diamonds and Angola provided important political opportunities in the UN, conflict-diamond links to Sierra Leone expanded those opportunities by getting the United States and Britain involved and by making the threat to the industry of expanding public attention more credible – even though media coverage of conflict diamonds lagged behind political efforts unfolding in this stage.

Several factors made Sierra Leone a better “candidate” for putting conflict diamonds on the agenda of several states. For one thing, Sierra Leone is a small, English-speaking where many western aid organizations had been involved over the years. Many relief organizations did not operate in Angola because of its enduring civil war that was embroiled in Cold War politics; it was nearly impossible to offer any services without appearing to be either pro-MPLA or pro-UNITA. Moreover, in Sierra Leone the RUF tactic of chopping off limbs of innocent men, women and children certainly provided powerful images for the media and the campaign. Similarly, the growing refugee crises added to the sense of urgency to act on Sierra Leone. In the United States, the Clinton administration was increasingly confronted with critics contrasting its involvement in the former Yugoslavia with its inaction in Africa. The administration had promised to put African issues high on its priority list but appeared to value African lives much less than European lives. This erosion of legitimacy with regard to the administration’s humanitarian concerns, along with the specific Sierra Leone factors discussed above, led to several high-level governmental visits. One visitor, Congressman Tony Hall, introduced the first national legislation concerning conflict diamonds upon his return from Sierra Leone.

The importance of Sierra Leone in putting conflict diamonds more firmly onto the global agenda can be understood through both rational actor and constructivist frameworks. Rational actor theories find support in the fact that the Sierra Leone case involved more powerful states, Britain and the United States, in the issue of conflict diamonds. Moreover, in the United States there were several domestic constituencies pressing for more US involvement in Sierra Leone. Black Caucus members were involved in early peace brokering and accusations grew that the administration was not living up to its commitment to the African continent. These developments fit rational actor predictions for agenda setting. Nonetheless, Sierra Leone continued to be unimportant for any powerful state with respect to geopolitical or material concerns. Rational actor models would predict much greater involvement of the US in Angola rather than Sierra Leone because Angola is one

of the largest oil exporters in Africa. Sierra Leone did indeed continue to receive little US attention or commitment, especially compared to other international matters at the time. However, it helped bring conflict diamonds under the spotlight within the US and globally.

The “Sierra Leone effect” also supports cultural constructivist predictions. For instance, Hall and Wolf both sought to represent much more than just their districts’ constituencies. They thought of themselves and their country as responsible for the conflicts unfolding in Sierra Leone. Fowler, Hall, and Hain all had long careers as world citizens, not only representing their constituencies but expanding their concerns to problems affecting distant places and people. Fowler had long been concerned with peace in Africa. Hall, a former Peace Corps volunteer and born-again Christian, had long worked to reduce hunger in Africa through his seat in Congress. Hain had his roots in the anti apartheid struggle. Their personal histories and their visits to war torn Sierra Leone led them to guide their respective organizations into the campaign. Their roles are best understood in cultural constructivist terms: Hall, Hain, and Fowler were shaped by principled ideas and felt morally obligated as responsible global citizens to take on this issue that violated so many global norms.

These observations about Sierra Leone yield important insights into the significance of norm entrepreneurs and the motivations that guide them. First, they show that norm entrepreneurs emerged in several sectors: the NGO sector (as evident in the first Global Witness and PAC reports), the UN (Fowler), and states (Hall in the US and Hain in Britain). Second, several of these individuals already had histories and identities as moral leaders before taking up this cause. Third, the first-hand visits to Sierra Leone engaged these individuals in a critical way. According to Keck and Sikkink (1998), a short chain of responsibility and a clear understanding of victims and villains increases campaign effectiveness. Sierra Leone in particular exhibited these characteristics and thereby magnified moral responsibilities of various actors. The brutal realities of the war, observed by some politicians first-hand, prompted more actors to urge action on conflict diamonds.

The Campaign Goes Global and the Industry Gears Up

On January 2, 2000, Partnership Africa Canada (PAC) published “The Heart of the Matter”, a lengthy study of the role of diamonds in Sierra Leone’s war, which also revealed the fraudulent nature of diamond trading in Antwerp, Belgium. The release of the report (PAC, January 2000) was simultaneous in Europe, North America, parts of Asia, and Sierra Leone. The authors of the report and PAC representatives gave interviews on radio and TV programs and ensured the dissemination of the report in many countries. Demand for the report was so high that it was reprinted twice in the first month (Smillie and Gberie 2001). In Sierra Leone, what was supposed to be a phone interview with a reporter actually turned out to be a live radio show that was broadcast countrywide. De Beers was invited

to a press conference in Ottawa that marketed the release of “The Heart of the Matter”. Smillie recalls:

When we did our first report, “The Heart of the Matter”, we spoke to them quite a bit to try and understand what De Beers was. I don’t know whether we ever contacted them in London but we spoke at length to the guy’s who was head of their Canadian office. It was in Vancouver at the time ... And we sent them an advance copy of our report. I think we sent it to them a day or two in advance, not enough for them to do anything but enough so that they had the courtesy of knowing that their name was gonna be in the newspapers, we hoped. And they actually asked if they could come to our press conference and we said sure. And on, I think two-days’ notice they flew from Vancouver ... You know they came to our press conference and they were very polite. They said something. I forget what they said, but not much. I think they knew that probably in front of the media it would be better to be quiet at that point. They put out their own press release and put it on their website. They were actually quite gracious because we had made a couple of mistakes about them, factual mistakes that they could have used to, you know to squash us. They could have said this whole thing is bogus and totally unreliable and here’s some examples. But they never did that. They pointed out the errors but they didn’t make a big deal out of it so that was, you know I think they decided softly was better than going head to head. It’s interesting because they are quite litigious (Ian Smillie, interview, July 5, 2006).

Smillie is referring to De Beers’ reaction to two other campaigns. Janine Roberts wrote a book on De Beers (*Glitter and Greed: The Secret World of the Diamond Cartel*, 2003) and was involved in making a movie about the company but De Beers sued her successfully, banning the film and the book in Britain. De Beers also legally challenged Survival International, an NGO protesting the removal of a few hundred San Bushmen in Botswana due to planned diamond extractions. Given this track record with other critics, it is quite surprising how De Beers reacted to PAC’s report. Andrew Bone from De Beers noted that the company sought to work with NGOs rather than limit its collaboration to states and the United Nations: “Certainly in the beginning we took the view that what we had to do was engage with these organizations and establish the imperatives. And we could not ignore them. And we could not say that we were working with the United Nations, therefore we don’t need to talk to NGOs. It was new to us. We’d never really experienced anything like this before, so we were very much feeling our way. And we were in those early days taking every day as it came along. The engagements I think instinctively were felt as the right thing to do in everyone’s interest, and we did that” (Andrew Bone, phone interview, July 7, 2005). According to De Beers, the NGOs, while harmful and annoying, had a legitimate claim to engage in agenda setting, which squares with cultural constructivist predictions.

“The Heart of the Matter”, named after Graham Greene’s 1948 novel about Sierra Leone, was published at a time when Sierra Leone and conflict diamonds already had achieved issue prominence politically, among states and NGOs and in the media. This context facilitated wider coverage and dissemination of the report. “The Heart of the Matter” is significant in several ways. It reconfirmed that, first, NGOs had done diligent research and developed expertise on the matter and, second, and of particular relevance to the industry, the attention to conflict diamonds would not go away anytime soon. Also, it marked a further step of internationalizing both the issue and the campaign against conflict diamonds by organizing a global media launch and targeting all continents, producer and consumer countries alike. Nonetheless, Smillie recalls that consolidation of a solid campaign had not yet occurred: “So then we were sort of off to the races. You know we still didn’t see a campaign. You know it took us until, almost another year until 2001 to actually put together a plan and go and get more money so we could really do this properly. It wasn’t until about 2001 that we really got rolling and that’s when we started doing other occasional papers and studies and things” (Ian Smillie, interview, May 4, 2005).

By January 2000, it became clear to policy leaders and others engaged in relevant policy circles, including NGOs, that the problem of conflict diamonds was not Angola-specific and that diamonds were responsible for warfare, instability, and conflict in large parts of West Africa, including Angola, Congo, Liberia, Sierra Leone, and Côte d’Ivoire. The media and public discourse were still largely silent on the matter, however. To policy makers, on the other hand, it was increasingly obvious that solutions would need to encompass both consumer and producer countries and the industry. But what role NGOs would have remained unclear: would they be watchdogs, troublemakers, experts, or partners in the months and years to come?

The CNN Effect

Sierra Leone’s war prompted increased activity in several states, particularly the United States and Britain, in the fall of 1999, though it was not until the following year that the war would receive significant mainstream media attention. A powerful documentary, *Cry Freetown*, which subsequently won several journalistic awards, aired on CNN in February 2000. This 30 minute film was created by Sorious Samura, a native Sierra Leonean. The movie received widespread attention and Samura was invited to various talk shows.

Media attention is important for NGOs to get an issue onto the global agenda (Keck and Sikkink 1998; Smith et al. 1999). Through mainstream news coverage, information can be disseminated to a wide audience and powerful images on television may encourage action (Cohen 1963). This is frequently referred to as the “CNN Effect”. Some scholars have questioned the significance of media

reports for agenda setting, however, finding that media attention follows broader discourse on issues rather than leading it (Schudson and Waisbord 2005).

Cry Freetown, along with other visual reports on Sierra Leone, included powerful stories and images of amputees who had lost their legs, arms, or ears in the rebels’ violent raids. Mark Van Bockstael, head of the Belgium High Diamond Council, described the significance of the shift from Angola to Sierra Leone in terms of the “CNN Effect”:

I’m still not very sure what would have happened if there had only been Angola. Mind you, Savimbi had been the hero of the Western world for two decades. Until 1992 he was considered to be basically the liberator of Angola by most of our Western governments, including the US and Belgium. I mean until the fall of the Eastern bloc, the Berlin Wall, basically we didn’t mind too much that UNITA was robbing diamonds in the northern part of the country and selling it to all of us, including De Beers. That was standard practice at that time. So nobody was giving too much attention to them. I think when you are looking at it in this prospect, 2000 is a very important year. Why? Because CNN was documenting early in the year, I think it was February especially, the terrible atrocities, I mean I’m not saying that there were no atrocities, I imagine that there must have been much more atrocities in Angola, but Angola is a very big country and a very large country in surface. Whereas Sierra Leone is a relatively small country. People speak English. And of course when you have a lunatic like Sankoh [the RUF leader] and Charles Taylor creating havoc and cutting hands off people in villages that are in diamond producing areas, that became immediately an item on CNN. And I think that’s the one especially that provided enough critical mass to force the diamond industry and, at the early stages at least, the governments of the producing countries to focus and to see what could be done to stop, well maybe in the early days it was maybe looking at stopping the bad news about what was happening in the diamond business, rather than having a solution to stop a few diamond fueling conflicts (Mark Van Bockstael, HRD, phone interview, September 22, 2005).

Bockstael points to several characteristics of the Sierra Leone situation that made it more viable for news coverage, most notably the RUF amputations.

However, it is important to note that most news coverage of Sierra Leone or conflict diamonds unfolded only after May 2000, when the KP was already entering the decision-making stage. It therefore appears that Bockstael and other industry and state officials were responding to less than a handful of articles that concentrated on conflict diamonds and they became increasingly nervous about the war in Sierra Leone, where diamonds were of central importance in the conflict – even though the link between diamonds and Sierra Leone’s civil war was not evident in most of the news coverage. Although news stories increasingly called attention to RUF’s tactic of spreading terror by systematically chopping off the limbs of innocent men, women, and children, typically these stories did not

mention diamonds. Similarly, peak coverage of Sierra Leone and conflict diamonds occurred subsequent to the agenda setting stage (see Figures 2.1 and 2.2).

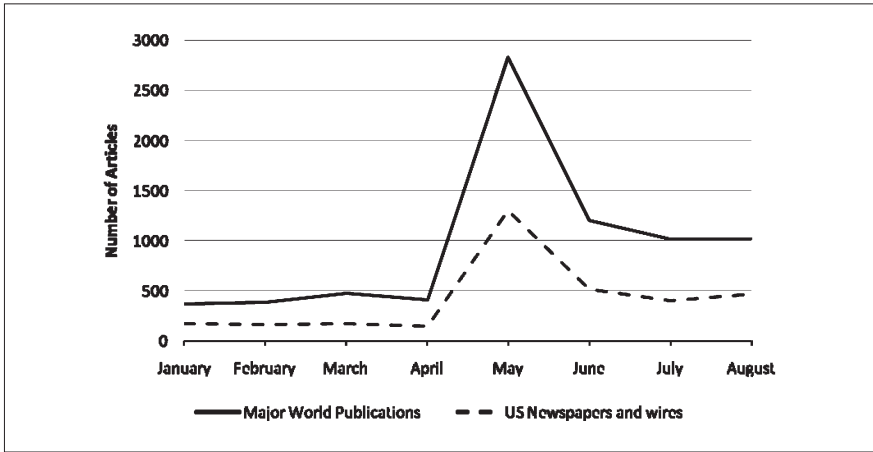


Figure 2.1 News coverage on Sierra Leone (January–August 2000)

Source: Lexis-Nexis searches for “Sierra Leone” in major world publications and US newspapers and wire services.

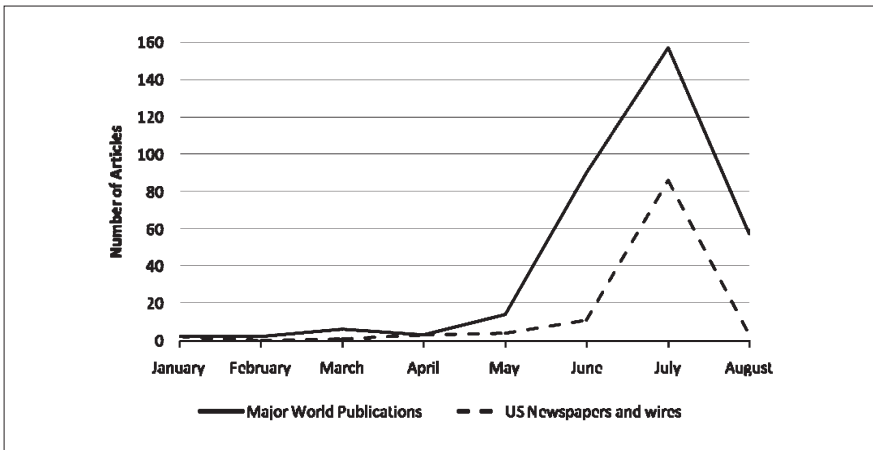


Figure 2.2 News coverage on conflict/blood diamonds (January–August 2000)

Source: Lexis-Nexis searches for “conflict diamond* OR blood diamond*” in major world publications and US newspapers and wire services.

Not until the summer of 2000 did conflict diamonds take center stage. Nonetheless, reports on Sierra Leone made the consumer awareness campaign more threatening to the industry, even for segments of the diamond business that so far had preferred to ignore the issue.

Moving Toward Decision-Making

By 2000 it became clear that the campaign was here to stay. “Initial reactions to “The Heart of the Matter” from the industry and some governments were extremely hostile, and there was no rush to accept any of the recommendations”, but “the PAC report suggested to many in the industry that denial was no longer a viable option” (Smillie and Gberie 2001: 3). Thus, the period leading up to the Kimberley Meeting in May 2000, can best be described as a time of emerging dialogue between parts of the industry, some states, and NGOs. While a public campaign had started at that time including activities like demonstrations that sought to shame diamond companies for their roles in funding civil wars, during the following months the climate between some NGOs, industry players, and states started to warm toward a more constructive debate on solution-building.

Increasing Concerns for a Consumer Boycott

On February 14, 2000, NGOs organized the first street demonstration in front of Tiffany’s in New York City. Congressman Tony Hall was among the protestors. Hall’s participation further illustrates how campaigning and agenda setting in many ways blur the lines between state and NGO activities. While protests undoubtedly must have made the industry nervous about a consumer backlash, industry leader Izhakoff claims that this was not a real concern:

Well, of course, they said that they might be a threat, etc. and the truth of the matter, public knowledge of this thing was minuscule. I don’t think if you will take any statistical data that was even one-half percent that was aware about conflict diamonds because people weren’t interested. And the industry really when I looked at it and we did what we did. We did it, I for sure didn’t do it because of the fear of consumer boycott. I did it because I thought it was the right thing to do but there was not any imminent consumer, because they didn’t care, nobody paid attention to it ... but I don’t think it ever came to a point where there was a threat for consumers not to buy diamonds (Eli Izhakoff, phone interview, September 24, 2005).

However the NGOs saw it differently.

They were scared to death that the NGOs would get out of control and there would be something like the seal campaign for seal hunt fur ... I don’t think

we knew how hysterical they may have been at the time. You know they're very cool and polite and so on, but I now know them well enough and I've heard them carry on about some things to know that they must have been really worried about what we were up to, really worried ... So, and they were, you know, no matter what goes on inside. No matter how nuts they may be about something, you'll never see it in public. I mean they're very sort of old school Oxford kind of diplomats. If you ever see them slightly ruffled it means that behind the scenes they are just wild, but in public they're quite good ... (Ian Smillie, interview, July 5, 2006).

While a consumer boycott may have been feared, industry reactions cannot be easily explained by dropping sales. As an industry journal pointed out, "So far, the news reports and the publicity haven't done much harm. Last year was one of the industry's best ever, despite the year-end flurry of 'dirty diamonds' articles. And this year's first-quarter sales have remained strong. But even if the negative publicity doesn't dissuade a single consumer, it still cuts into the industry's time and saps its energy. The money De Beers spends defending diamonds is money not spent on promoting them" (Bates 2000: 10th paragraph).

Further UN Actions

In March of 2000, the United Nations Angola Sanctions Committee published its assessment of the Angola sanctions regime in a widely cited report known as the "Fowler Report". Smillie describes the context in which the "Fowler Report" emerged, following the Global Witness report on Angola and PAC's report on Sierra Leone. "The Angola Sanctions Committee report came out in the UN and that basically confirmed everything that Global Witness and we had been saying. They couldn't say less than we had said and we were pretty tough on Belgium and on the industry and all the rest of it so they had to say at least that much and they did" (Ian Smillie, interview, May 4, 2005). In other words, the NGO reports had raised the bar and encouraged a more pointed UN report than what the Panel of Experts would have otherwise reported.

Reaching Industry Leaders: Responses from De Beers and Rapaport

As discussed earlier, industry reactions varied: "De Beers ... certainly they got into it fairly quickly. The first, first one to break ranks in the diamond industry was Rapaport, Martin Rapaport [a US diamond trader] who went to Sierra Leone in 2000 and came back and wrote an article ... called Guilt Trip. And he said we have a responsibility here. This is our product and it is killing people. De Beers soon after that or roughly at the same time decided that it would be better to engage than to deny that they, they could see that something bad might happen here" (Ian Smillie, interview, July 5, 2006). Rapaport wrote a widely circulated article in April, 2000, after his visit to Sierra Leone. While his earlier article, "Blood Money", was

characterized by distrust toward NGOs and states, this article was a wake-up call to the industry to start addressing the problem of conflict diamonds rather than worry about the campaign. “We cannot sit back and write off the problems of Africa as unsolvable – the human suffering is simply too great ... The time has come for us to band together and make sure that we can be trusted to ensure the legitimate origin of our diamonds and the legitimacy of our diamond industry ... If you don’t know where or from whom the diamond comes from – don’t buy it. We must no longer deal in grey diamonds”. He joined the NGOs in shaming the industry about its ignorance and double standards. “Perhaps I can better explain the problem of conflict diamonds by bringing the issue closer to home ... Let’s say hundreds of salesmen and jewelers across the US were being killed every year by diamond thieves. What do you think the response by our industry would, or should be? ... Is the life of a black in Sierra Leone worth less than the life of a diamond dealer or jeweler in the US?” If one did not know who the author was, the reader might suspect this was a quote from an NGO report.

Martin Rapaport, perhaps the biggest name in US jewelry diamonds, was strongly affected by his trip to Sierra Leone; it made him a key agenda setter. But what is perhaps more telling is that *Guilt Trip* led him to conclude not only that the industry must cooperate fully with the authorities in charge of solving these problems (i.e., the UN) but that the industry was also responsible for ending the war, regardless of concerns about profits and reputation. This example shows that NGOs were successful in convincing some in the industry of their broader responsibilities: those who were accused of villainy were also – and especially – obligated to help resolve the problems.

Changes in De Beers could also be observed. De Beers declared its diamonds fully conflict-free on March 29, 2000. The De Beers guarantee reads, “No diamonds in this box have been purchased in breach of UN Resolution 1173. The intake of diamonds being purchased by De Beers and its associated companies and being sold into the market through the Sight system² does not include any diamonds which have come from any area in Africa controlled by forces rebelling against the legitimate and internationally recognized government of the relevant country”. This was supposedly achieved by no longer purchasing open market diamonds, i.e., diamonds stemming from sources other than De Beers’ own mines. From then on, De Beers would include a conflict-free guarantee on invoices accompanying all shipments of diamonds. This marks the beginning of branding diamonds as conflict-free, which would later also become a marketing strategy for some Canadian producers and retailers.

2 The Sight system is the unique method by which De Beers trades its diamonds. A limited number of Sight holders are invited to Antwerp to purchase De Beers’ diamonds. Sight holders must agree to purchase packages assembled by De Beers with a mixture of diamonds, usually a combination of desirable and less desirable stones. Being a sight holder is the only way to purchase diamonds directly from De Beers.

Thus, in just a few months De Beers' strategies adjusted to the new circumstances. The change could not have been more drastic. Global Witness cites De Beers' annual reports that boast about its acquisitions of Angolan diamonds throughout the 1990s, until 1998. In October 1999, De Beers announced that it had stopped buying Angolan diamonds altogether and focused on marketing diamonds from its own mines rather than buying open market diamonds. In its 2000 Annual Report, De Beers wrote, "It is appalling that a product which is the ultimate symbol of enduring love and purity and all that is best in mankind should be linked in any way with the obscenity of war and the suffering of the innocent" ("De Beers Annual Report" 2000: 14). Moreover, De Beers chairman Nicky Oppenheimer came to describe the company as the leader in ethical diamond trading. "De Beers, having ensured that it could confidently describe the diamonds it sells as conflict free, has also used its authority and expertise to urge and encourage the rest of the diamond industry to follow suit" (14).

De Beers' increasing support for and cooperation with the campaign was seen by some NGOs as a savvy corporate social responsibility strategy, by others in the industry as another business strategy to maintain its disproportionate market share. Corinna Gilfillan from Global Witness makes the former point: "I think if you get the large companies, like the De Beers of the world have come around. You know, they want to stave off any kind of association with conflict diamonds. And so they now have lots of CSR initiatives and have gotten quite, you know sophisticated in trying to show that they're doing the right thing on these issues. And I'm not saying that they're perfect or that they've addressed all their problems, but they tend to be savvy in how they deal with NGOs and the issues like these. But the smaller, for example the diamond traders, the smaller companies involved, particularly on the rough diamond side, are probably the ones where there's still some reluctance on some of these issues" (Corinna Gilfillan, Global Witness USA, phone interview, September 20, 2005).

Most of those "smaller" players in the industry, however, were also deeply suspicious of De Beers' intentions. Smillie explained:

The diamond industry has this sort of love/hate relationship with De Beers. I mean De Beers has created the diamond industry and they've created value out of nothing and they protected the value for ages and, you know, most people know that in the industry and know that if De Beers collapsed there would be big problems, big problems. I mean De Beers is the industry leader. It's the guardian, the godfather in all the negative and positive senses, but they're very controlling and there actually is a big shortage of rough diamonds. Very hard to get rough diamonds at the moment for a lot of people and De Beers only sells to a limited number of site holders and if you're not a De Beers sight holder you've got to get your diamonds elsewhere and De Beers controls the price and it controls who gets and who doesn't get and all the rest of it and so people just don't like it. They know that it can't be a free and open market in diamonds. It would be chaotic. I mean values would just plunge but they just don't like the

control. And I think they thought that De Beers, one of the things that De Beers did early in '99, they closed all of their independent buying offices in Africa. The minute this thing started to really get noisy. They closed down their offices. They had one in Guinea. They had one in Congo. They had one in, I don't know how many they had but they were scattered round and about, aimed at just mopping up diamonds wherever they could find them. They closed all that down and came out with sort of a code of ethics and standards and a lot of people, a lot of the rest of the industry said, well, you know, that just leaves the rest for us. I mean you, now you've picked up all the clean stuff and you washed your hands of the rest and we have to go there and get all that stuff now. So, you know, I mean De Beers always knows how to make its bread fall jam side up. It just, just when things look darkest it all comes right for them. But I don't think it was, I don't think it was a plot (Ian Smillie, interview, July 5, 2006).

Clearly, responses in the industry varied greatly, but the conflict diamonds case shows that NGOs need not convince an entire industry. Winning over a few receptive industry figures can help pressure more reluctant parties. The rapidity with which the campaign led to industry responses can largely be attributed to the organizational structure of the rough diamonds industry. As explained earlier, most gem-quality rough diamonds go through two main funnels: De Beers and Antwerp. “De Beers understood the vulnerability of the diamond industry. The wider industry had a lot to lose as well, but with an industry leader the size of De Beers willing to engage, the problem in unifying thousands of small family businesses around the issue barely arose” (Smillie 2005: 2). Similarly, Antwerp, the center of the world's diamond trade handling 90 percent of the world's rough diamonds, understood the high stakes: “Collectively, the Antwerp diamond business, Antwerp itself, and the Belgian economy as a whole would have had a lot to lose in a consumer campaign” (Smillie 2005: 2). For some in the industry, the fur campaign and the Nike campaign were object lessons in the damage a consumer campaign could cause. Still, much of the agenda-setting stage unfolded without mainstream news coverage, most consumers remained unaware of the issue. The UN and NGOs were able to set the agenda of the industry not merely through threats to the bottom line but by shaming them as actively contributing to violent conflict or, at best, sitting on the sidelines as apathetic bystanders. De Beers and other leading industry organizations realized that they could not continue to claim that they had no responsibility in the matter. They came to believe that they must do more than what was legally required (as indicated in the De Beers testimony to the US Congress). Remarkably enough, De Beers perceived these small NGOs as potential and credible threats: A monopolistic firm that had had tight control of the diamond industry for decades was unable to ignore a handful of small NGOs publishing reports that were not even widely disseminated in the popular media at the time.

It appears that NGOs were more successful in engaging industry players with established records of concern for corporate social responsibility and business

ethics than segments of the industry that had not adapted to these global normative processes. The evidence in this area lends support to the cultural constructivists who would predict that industry players more immersed in the world polity were more likely to be engaged in global agenda setting. Diamond organizations based in Europe and North America were more receptive than companies like Alrosa in Russia. The reluctance of Alrosa and similar less central actors may partly reflect their distrust of De Beers, but it also reflects their greater distance from global normative principles and processes as well as their likely lack of familiarity with earlier successful consumer campaigns in other industries (e.g., Nike and the fur trade). Overall, the different reactions within the industry suggest that a successful campaign does not require that the majority of actors put the issue on their agendas. In other words, agenda setting can occur and successfully move to the next stage, even with many actors unengaged. It appears critical, however, that an industry internal leadership developed that would continue to set the industry wide agenda and drag unwilling entities along. Especially reluctant companies are more likely to acknowledge and follow recommendations on course of actions of a competitor than an NGO that has threatened the industry's bottom line.

US Congressional Hearing on Conflict Diamonds

In early May 2000, the United States Congress House Committee on International Relations, Subcommittee on Africa, held a hearing on the topic of conflict diamonds. This hearing arose in the context of continuing debates in Congress about Tony Hall's Carat Act. This was a significant further step in moving toward the development of solutions and marking the successful agenda setting of conflict diamonds. Broad input was sought by inviting state, industry and NGO officials to testify on the topic. De Beers was prohibited under anti-trust laws from conducting business in the United States and outstanding legal actions prohibited De Beers' representatives from traveling to the United States. Therefore De Beers was only able participate by submitting a written testimony. A senior De Beers official described the significance of this testimony as follows. "A significant and defining opportunity for De Beers to establish credibility, demonstrate its determination to be 'part of the solution' and regain some of the initiative arrived in May 2000 when it was invited to provide written testimony" (Bone 2003). Overall, the Congressional hearing demonstrated the importance of non-state actors, particularly the responsibility and role the diamond industry must play in resolving this problem. In essence, the hearing reinforced procedures that valued multi-actor (state, NGO, and industry) input and collaboration as necessary for tackling the problem.

The US Congressional Hearing on Conflict Diamonds was followed by the first Kimberley Process meeting on May 9, 2000, which marks the beginning of the decision-making stage, explored in the next chapter.

Material or Moral Motivations?

Key findings from this chapter offer insights into global political opportunity structures, the role of the media, norm entrepreneurs, and the overarching debate on material or moral incentives. Putting conflict diamonds on the global agenda was facilitated by three principal factors: concerns within the UN about smart sanctions and Angola, the “Sierra Leone Effect” that expanded the number of people concerned with conflict diamonds, and the centralized structure around which the diamond trade is organized, namely De Beers and Antwerp.

Early developments in the UN regarding Angola and UN sanctions investigations into the diamond trade largely unfolded in rational actor terms, though, as I have shown, moral motivations of actors like Fowler also were critical in these early developments. Sierra Leone brought normative concerns to center stage, engaging a variety of norm entrepreneurs. Thus, while Risse et al. (1999) find that material concerns dominate early stages of norm development and non-material motivations become important in the implementation stage, I find that moral motivations already played a vital role in the agenda-setting stage.

The chapter revealed that that media coverage and public concern followed the agenda setting stage and thus cannot account for the proactive engagement of some in the industry. It was not until May 2000 that widespread news coverage disseminated gruesome images of Sierra Leone and not until July 2000 that significant coverage on conflict diamonds occurred. Just as prime-time news reports and public campaign events, such as mass demonstrations, took off in the second half of 2000, the political process started to turn toward tripartite negotiations, characterized by growing collaboration rather than accusations and acrimony. This is surprising, since according to the social movement literature institutionalized reactions normally follow protest activities rather than precede them. The mere threat of a full-blown public campaign combined with favorable political and institutional contexts, as described in the agenda-setting stage, were enough to spark serious and practical decision-making. The threat of negative consumer reactions helped ensure progress, forcing the industry and states to stay committed and focused on delivering solutions. The evidence suggests that the media followed rather than led the global agenda-setting process for conflict diamonds, supporting Robinson’s (2002) findings on the “CNN Effect”. The “CNN Effect” thus may be better understood as a two-phase process. First, a small number of significant reports early on, while not leading to widespread public awareness or outcry, reinforced the salience and potential threat of a public awareness campaign in the eyes of key policy makers and industry officials. The second phase of more widespread media attention to conflict diamonds followed in part as a response to increasing political activity on the issue. Only subsequently did media attention help put the issue on the agenda of a larger public. Consumers and the public were not directly relevant in this early campaign stage. Instead conflict diamonds were put on state and TNC agendas through direct engagement with NGOs. The NGOs sought to engage not only states but also TNCs and IGOs based in distant lands

or operating on several continents. Global Witness's report, for instance, targeted UN policy makers.

The chapter shows that NGOs' expertise did facilitate their influence over the global agenda. For example, Global Witness was invited to brief the UN Security Council on Angola at an unofficial meeting. Similarly, NGOs were invited to testify at US Congressional hearings in May 2000. Moreover, the early NGO reports on conflict diamonds raised the bar for UN investigations and the Fowler group. Fowler was under pressure to report at least as much as the NGOs had uncovered with regard to state and industry involvement in the trade of conflict diamonds. The process by which NGOs shaped further UN policies was quite extensive and direct, supporting cultural constructivist predictions about NGO involvement. Their moral authority and expertise, NGOs can influence states and TNCs by altering their global reputations.

NGOs influence *vis-à-vis* states in particular needs to be understood in the context of previous global campaigns that set the stage for a successful engagement in the blood diamond movements. Highly visible and well coordinated international social movement efforts like the "Campaign to Ban Landmines", the anti-dam movement (Khagram 2004), the global indigenous and women's movements (Berkovitch 1999), and Jubilee 2000 (Grenier 2003; Khagram et al. 2002) served as important precedents for collaborations between state and non-state actors. These campaigns, along with the experiences gained by NGOs in global conferences (such as the UN sponsored world conferences – on women in Beijing, on the environment in Rio – or in the World Social Forum in Porto Alegre) helped boost the reputation and credibility of NGOs as knowledgeable and seasoned partners in global political processes. Such precedents especially encouraged positive responses toward subsequent campaigns by certain states. Canada's involvement in the Ottawa Treaty (the Ban on Landmines) heightened its subsequent interest in the "new diplomacy" of engaging with NGOs in addressing important global challenges. Similarly, Global Witness' reputation as diligent investigator on the Khmer Rouge added important credibility to the blood diamond campaign. By the same token, the lessons learnt during the conflict diamond campaign and the KP will facilitate future state engagement in NGO campaigns.

Previous campaigns conditioned the behavior of industry as well, but a different set of experiences shaped the industry's engagement in blood diamonds. The conflict diamonds campaign emerged after extensive campaigning directed at other consumer products. Prior campaigns on fur and animal rights, coffee and fair trade practices, clothing and sweatshops provided a context that made a consumer boycott a credible threat to the industry. The fur campaign was a critical precedent for several reasons. It caused more economic damage to the fur industry, at least in the short term, than the fair trade and sweatshop campaigns managed. That outcome was especially relevant for the diamond industry. Diamonds, like furs, are expensive luxury products, perceived as special gifts of lasting significance. These products' material value has been greatly enhanced due to industry efforts

to imbue them with high status and expanded meaning. This socially constructed meaning makes luxury products more vulnerable to global consumer campaigns.

The consumer campaigns like the blood diamond campaign show that NGOs can form crucial links between consumers and producers, translating purchasing power into a political tool (Evans 2000). Consumers’ preferences for fair trade or sustainable products are in part shaped by awareness campaigns. Consumers are also engaged by aggregate effects of global campaigns, industry’s CSR promotional practices, and globalization processes at large, that, together, disseminate norms about what it means to be a responsible global consumer who considers the impact of consumption decisions in an interconnected world. Precisely because many consumers are already sensitized to “care”, NGOs’ threats of consumer awareness are taken seriously by TNCs. Thus, even the seemingly material pressure of boycotts can only be meaningfully interpreted when looking at nonmaterial, cultural contexts that shape the course of action of TNCs. While NGOs serve as important links between consumers and producers, their ability to actually evoke large-scale consumer engagement is easily exaggerated and these campaigns are not as ‘bottom-up’ as they may seem. In the conflict diamonds campaign, like other consumer campaigns, most consumers remained unengaged. What emerges quite clearly from the timeline of the blood diamond campaign is that widespread media coverage followed rather than led agenda-setting efforts. That the “CNN Effect” of media attention to the issue paralleled early decision-making rather than preceded it goes against the widely accepted understanding of the role of media publicity in moving states or industry to engage in an issue. Supposedly bottom-up pressure on companies is actually far removed from the grassroots purchasing-power activism envisioned by many advocates. Individuals as consumers are rather disengaged, a fact that further highlights the top-down nature of global campaigns.

Still, previous consumer campaigns showed that even small numbers of “aware” consumers can force changes in entire industries. Most of the activities regarding sweatshops and fair trade coffee were largely confined to a few campuses in the United States and neither campaign generated many headlines in the media. Nonetheless, Starbucks and Nike eventually undertook considerable changes in their corporate practices to accommodate NGO accusations. Similarly, in the blood diamonds campaign, the industry took action while most consumers remained unaware and indifferent. On the one hand, preemptive industry action can be interpreted as rational attempts to avoid image damage and loss of demand. But it is also a function of companies’ exposure and commitment to CSR principles, which hold that “social responsibility makes business sense”, thereby intimately connecting the moral and the material.

CSR principles provide a meaningful explanation for what motivated industry to get involved in the Kimberley Process. CSR principles redefine calculations of the bottom line. For businesses the relevant climate in which the conflict diamond issue could flourish was CSR.

The spread of CSR practices provides opportunities for global campaigns to target industries and firms with regard to their social and environmental practices

in several ways. Socially responsible firms have already made promises about their commitment to local communities, environmental stewardship, and so on. NGOs can invoke those promises, i.e., point to violations or double standards in company behavior. Accurate predictions of these costs and benefits are at best problematic and imprecise (for a recent debate on this still unsettled issue, see *The Economist*, January 19, 2008). While some research on the effects of CSR on profitability has been conducted, results are mixed and scholars continue to debate whether CSR adds to or harms the bottom line of corporations and society at large (Henderson 2001; Ruggie 2005; Reich 2007; Porter and Kramer 2006). Overall, it is difficult for firms to assess how much a more responsible image would add to their profitability or the extent to which the adoption of a code of conduct would increase consumer and shareholder satisfaction or trust. More importantly, firms imitate industry leaders and CSR practices become institutionalized and adopted without significant considerations regarding their utility in specific circumstances (den Hond et al. 2007). Still, the notion that profits and social responsibility go hand-in-hand aids campaigns in pitching their messages toward a wider audience of businesses. A lesson is to be learned here for NGOs: rather than expecting TNCs to sacrifice, or provoking resentment among other NGOs for helping TNCs to improve the bottom line, NGOs should, albeit skeptically, acknowledge and push the motto in order to engage even more companies.

To fully understand the agenda setting efforts that placed conflict diamonds on the global radar screen of recognized and action worthy social problems, we must consider the broader context in which these events unfolded. The socio-political environment of global politics, or to put it in social movements lingo, the opportunity structures, facilitated agenda setting efforts. Specifically, I found that the behavior of the diamond industry, states, and NGOs throughout the campaign was shaped by specific precedents of other consumer campaigns, most notably the anti-fur campaign; by CSR principles that have been widely adopted by prominent TNCs or whole industries, and are further disseminated by international organizations (such as the UN's Global Compact); and, more generally, by broad normative principles that promote NGOs as authorized actors in global society and define certain actions as unacceptable violations of universal principles. In conclusion, my study suggests that global consumer awareness campaigns and movements targeting TNCs or industries are enhanced by previous campaigns, which redraw the responsibilities of today's consumers and corporations.

Chapter 3

Decision-Making: The Creation of an Independent Tripartite Forum, the Kimberley Process

Introduction

Decision-making marks the second stage in the life-course model on global campaigns and agreements. It involves developing solutions and establishing new standards. This is an activity most frequently associated with states, but evidence presented in this chapter shows that multiple actors were involved in the decision-making regarding blood diamonds. In addition, I explain how and why negotiations on conflict diamonds moved out from under United Nations auspices and into an independent tripartite setting. I also explore the conditions that facilitated KP negotiations to move quickly and successfully toward an agreement.

There are several crucial distinctions between the agenda setting and decision-making stages. First, the decision-making stage is marked by a shift to negotiating solutions rather than debating and contesting the problem. This does not mean that all actors' agendas have been set. In fact, in the blood diamonds case the majority of states and industry players were not immediately engaged in solution building, but a critical mass of actors launched the process. Moreover, the decision-making stage entails a change in tactics by NGOs and a change of locale for negotiations. Evidence from the conflict diamonds campaign suggests that the life course model of global campaigns and agreements moves from a highly diffuse global agenda in the first stage toward multiple but clearly defined organizations charged with solving the problem in the second stage (the KP and WDC).

This chapter discusses four main developments: how the KP quickly emerged as the primary and undisputed forum for negotiations, how the industry consolidated into one umbrella organization (the World Diamond Council), how the continued threat of a boycott kept pressure on the industry and states, and how the tripartite KP structure helped overcome obstacles and delays.

Sierra Leone in effect pulled the campaign out of the UN context in the first half of 2000, but UN endorsements and templates for diamond regulations would continue to shape the KP. Early KP meetings bringing both the industry and NGOs to the table served as precedents and led to a tripartite decision-making process. NGOs were initially invited for legitimacy reasons. While many states remained highly critical of the NGOs, I argue that the lack of formal organization and institutionalized procedures in the KP made tripartite innovation a more viable

option. I further show that the creation of a centralized industry organization (the World Diamond Council) contributed to the ongoing viability of the tripartite process. I also explain that the creation of the WDC was possible because reluctant industry actors could be convinced by more proactive forces within the industry that increasing media attention and continuing NGO public awareness campaigns would erode consumer demand.

Evidence presented in this chapter also shows that the campaign was characterized by two increasingly separate spheres: an on-going awareness campaign in the public sphere and a more formal and technical decision-making process, the KP, in the private sphere. This split was associated with tension among NGOs. I explain the significance of the public awareness campaign when NGOs had already been formally accepted and incorporated into the official decision-making process. I find that the public awareness campaign, as well as NGOs' formal participation in the KP, crucially affected the scope, quality, and pace of decision-making. I show that NGO involvement, along with some other factors, explains why the process moved so quickly toward implementing a solution.

1st Kimberley Process Meeting: Setting the Stage for Tripartite Negotiations

The decision-making stage is demarcated by what would later become known as the first Kimberley Process (KP) meeting in Kimberley, South Africa. This meeting was initiated by South Africa's Minister for Mines and Energy Affairs, Phumzile Mlambo-Ngcuka, in collaboration with Namibia and Botswana, three of the largest diamond exporters. NGOs, industry and the three major trading countries, Britain, the United States, and Belgium, were invited to the meeting in May, 2000, to discuss how to address the problem of conflict diamonds. This marked the beginning of "formal" negotiations. The organizers worried that blood diamonds would taint the image of all diamonds, including their "clean" gems. Diamond exports made up significant percentages of these African economies and a drop in demand would have seriously hurt revenues and employment.

Botswana has been a poster child of sorts for African development and a counter-example for the frequent cited natural resource curse.

Botswana provides the best example of what diamonds can mean to a developing country when its deposits are exploited for the benefit of the many, not the few. Botswana is the largest producer of gem diamonds in the world, producing \$1.7 billion worth in 1999. Last year Botswana's foreign reserves stood at \$6.5 billion. With an annual growth rate of nine percent Botswana is one of the fastest-growing economies in the world. It remains dependent on the diamond industry for seventy-five percent of its foreign exchange earnings, sixty-five percent of all government revenue, and thirty-three percent of GDP. Botswana is not merely an economic success story, it is also a rare political success in Africa: a stable, peaceful, multi-party democracy. This political stability ensures

that its diamond industry operates within an orderly, transparent and predictable legislative framework, and that all of its citizens benefit from its diamond income (De Beers Congressional Testimony, May 2000).

Botswana and De Beers own all of Botswana's mines through a joint venture, company, Debswana. Together they launched an initiative called "Diamonds for Development" attempting to associate Botswana's diamonds with economic prosperity in Africa, showing the potential for Africa to attain development and democracy rather than warfare and misery. While it is true that Botswana ranks highly in terms of democracy and development compared to other diamond producers, NGOs pointed out that Botswana had certain unique advantages in its diamond production. "First, its diamond mines are incredibly rich – the richest in the world. More importantly from a macro economic point of view, they are all Kimberlite mines. This means that the mines are easily fenced and controlled ... Not only does it own 50 per cent of the mining operations in partnership with De Beers – which owns the rest – it also owns 10 per cent of De Beers" (PAC and Global Witness 2004: 5).

South Africa's proactive role in calling for the first KP meeting is best understood in the context of the legacy of its apartheid regime. Apartheid South Africa was subject to a consumer campaign and limited sanctions during the mid-1980s, although the diamond industry did not suffer any decline in exports during that time. After democratization, South Africa sought to improve its image and establish itself as a leader of the region. The increasing concern for blood diamonds provided an opportunity.

While the economic incentives for these countries are clear, rumors that continue to circulate suggest that South Africa organized the first KP meeting after being prompted by De Beers. Judith Sargentini from Fatal Transactions argues, "It's been organized by the diamond industry probably together with the South African government" (interview, July 18, 2005). Similarly, Smillie speculates,

Smillie: I mean I often wonder whether De Beers didn't say to the government of South Africa, why don't you host a meeting? Why don't we all come together and talk about this? I've often wondered whether that might not have been the case ...

Bieri: So why would you think though that De Beers might have asked South Africa to host this?

Smillie: Well I think the same reason that they're in the DDI [Diamond Development Initiative]. If they ever, if they did that. I don't know that they did but.. Well the alternative was like the end of the world (interview, July 5, 2006).

It remains unclear what role De Beers played in convincing South Africa to host this meeting. Regardless, it was a significant meeting that involved states, industry

and NGOs and marked the shift into the decision-making stage. It showed that the diamond industry's response to the campaign had moved from denial to engagement (Smillie 2005).

The meeting was more than a symbolic display of outrage about the consequences of conflict diamonds; it initiated serious work on finding solutions. "Although the first Kimberley Process meeting was held in a small Dutch Reform Church hall and comprised only a handful of government representatives, industry leaders – mainly from De Beers – and NGO members, led by Global Witness and Partnership Africa Canada, its modest beginnings belied the significance of the gathering. The conference brought clarity to the issue, defined the problem and united the various disparate parties in recognition of a shared objective: an end to the trade in conflict diamonds" (Bone 2003: 4). For example, at this meeting De Beers put forward a definition of conflict diamonds¹ which was endorsed by NGOs and subsequently adopted universally.

Tripartite Precedent

NGOs that had previously criticized, accused, and infuriated industry players and some states now would meet with them face to face over several days to attempt to find common ground. The meeting provided a welcome opportunity for those targeted in early NGO reports: "So important had the issue become for Belgium that its foreign minister, Louis Michel, attended, rubbing shoulders with Belgium's NGO antagonists, industry leaders and other government representatives" (Smillie 2005: 2).

Why were the industry and NGOs invited to the meeting? A governmental meeting would seemingly have been more appropriate since the issue concerned trade matters between producer and consumer nations. Several factors account for industry involvement in the meeting. The extraction side of the diamond industry is characterized by collaborative ownership by states and private firms, as the Botswana case illustrates. The president of Botswana, Mr. Mogae, once described his government's relationship with De Beers as follows: "The partnership between De Beers and Botswana has been likened to a marriage. I sometimes wonder whether a better analogy might not be that of Siamese twins" (Debswana 1997). Thus, having Botswana at the table implies that De Beers should be directly represented as well, or that the company would be indirectly represented through the Botswanan state representative. If the speculation that De Beers encouraged South Africa to hold this meeting is true, De Beers would have certainly pressed for being present at the table. Similarly, the Belgium government has a close relationship to the official nongovernmental industry body, the High Diamond Council (HRD). For any diamond-related negotiations involving the Belgian

1 "Diamonds, which are mined, or stolen by rebels in opposition to the internationally recognized government of a country" (formal definition, KP website).

government, the HRD would at least be closely involved behind the scenes. The industry's presence in essence was enabled by its close ties to these states.

Smillie explains NGOs' inclusion as follows:

I think they [states] knew they had to get us into the tent. Otherwise, if they tried to do it secretly by themselves they'd make a mess. And they couldn't really do it properly without industry because industry knew, you know they knew how to keep it ... I think industry knew that if it was left to NGOs or governments or both alone they would make a mess of it. They would come up with something so horrendous that it would be very costly to the industry. So they really had to be part of this. They could keep it to a minimum, and of course you couldn't have industry in it if you didn't have the NGOs in it (Ian Smillie, interview, July 5, 2006).

One reason NGOs were asked to join the negotiations was concern on the part of states and industry that a meeting that did not include NGOs would have appeared illegitimate. While the industry's presence could have delegitimized the political process of the KP, evoking charges that only special interests and commercial motivations were at work, NGOs legitimized the process as critical voices that could keep states and industry in check. Even the industry credits NGOs for this role. When asked how important the participation of NGOs in the KP was, Eli Izhakoff, a senior industry official, answered as follows:

Very, very, very. Indispensable. Because they keep us honest, they keep the government honest and they play a very vital role and sometimes if they do urge or write something negative in the newspaper although publicly sometimes I criticize them, I welcome it because my industry sometimes say you are doing it just because you're doing it, nobody cares so when the NGOs speak it is very helpful. Both for governments and for industry to keep everybody honest and because they know that NGOs speak for, they don't have any ax to grind, and basically they've done magnificent things and I myself have in the past few years learned to appreciate them because they come from the right wave and they mean well and sometimes they go overboard in order to achieve a little bit under board sometimes you know so I don't have any problems with them. On the contrary, I feel that they play a very useful role (Eli Izhakoff, phone interview, June 24, 2005).

Moreover, some states and the industry sought NGO involvement not only for legitimation but for NGOs' technical savvy as well. The important role NGOs played in defining the issue of conflict diamonds became evident during the agenda-setting stage. The industry and some states credited NGOs for drawing attention to the problem.

I think the NGOs are pushing us quite a bit to get things done. It's not just pushing us, I think they're really concerned about getting objectives not just yelling for the sake of yelling. They only want to meet the objectives. The NGOs I think were the prime movers to start the Kimberley Process. They really see what the issue is. And they are willing to get their hands on the data and work with us. They're not just yelling, they're willing to work with us. We appreciate the NGOs, but sometimes they push a little hard. But we appreciate them. (Rob Dunn, interview, May 5, 2005).

NGOs had in various ways shown that they had more to offer than a splashy campaign: they could and would lend their expertise to developing solutions. Peter Hain of the British Foreign and Commonwealth Office described the importance of tripartite solutions and NGO participation as follows:

[T]he 21st century consumer increasingly demands the right to know. The voice of civil society cannot be ignored. If NGOs are demanding greater transparency and accountability, we should all welcome their wake up call. And ... not act defensively, but engage to get the best outcome for the industry and the consumer. I believe that NGOs like Global Witness have earned their place at the table. Because they have been prepared to listen and learn. And because they have networked effectively and helped bring the different actors together. The Foreign Office has been happy to contribute funding to their research into identification and certification. But that does not mean we agree with all their conclusions. We do not. So, I welcome forward-looking thinking in the IDMA [industry NGO] suggesting that if an international diamond council is to be considered, it should be a tripartite body with industry, government and civil society representation. But let us avoid heavy bureaucracies, inter-governmental procrastination and look instead to light and effective models of industry self-regulation backed by both full transparency and the support of government legislation (Minister of State, Speech at International Diamond Manufacturers Association in Antwerp, July 17, 2000).

Another important reason for seeking NGO participation was that all states present at the first KP meeting (Belgium, Botswana, Namibia, United States, South Africa, and Namibia), except for Namibia and perhaps Botswana, had prior experience collaborating with NGOs domestically and internationally. Tim Martin, former KP chair and senior official in Canada's Foreign Affairs department, had the following to say concerning the role of NGOs and industry in the KP:

I think it [NGO and industry participation] is essential to the functioning of the Kimberley Process system and I think this is a characteristic of the new diplomacy that we'll see with respect to emerging international challenges. We see for example a tripartite structure in the emerging extractive industry transparency initiative for example. It is, governments obviously have to be

the principal part of this because it is based on legislation and government mechanisms of control and customs and these functions. At the same time, civil society has demonstrated a very deep knowledge of the issues, special expertise with respect to conflict and peace questions, and they bring a communications and public awareness dimension to it with partnership with civil society in especially African countries which has been the case. And with respect to industry we need to have a living constant participation so that the people who are importing and exporting are inside the scheme and their systems and their concerns are the basis for analysis. Something else I would add and I don't think is always recognized but we see this in the operations of the Kimberley Process is that Partnership Africa Canada and Global Witness have deep understanding, knowledge, and bring a lot of technical and analytical assets to the Kimberley Process. So it's not a situation where it's, we're being impelled by civil society affecting public opinion although it does that and that's healthy but civil society participates in an integrated, informed, professional, technical way as well (Tim Martin, interview, May 6, 2005).

Tim Martin stresses the technical and analytical functions NGOs can contribute to decision-making, besides their more commonly recognized function of public awareness raising. He credits them with having special expertise regarding conflict and peace issues and offering important communication channels to civil society and stakeholders on the ground.

In summary, NGOs were invited to this first meeting as a counterweight to the industry's presence. NGOs thereby legitimized the meeting. In addition, NGOs had already shown in several events during the agenda-setting stage that they were knowledgeable and technically competent. Moreover, some states regarded NGO's as important representatives of communities and civil society.

Moving Formal Talks Outside the United Nations System

Despite the supportive role the United Nations had played thus far, decision-making would occur outside the UN. KP participants, states as well as non-governmental representatives, feared that the process would be delayed if it was kept within the UN. Moreover, due to the ineffectiveness of sanction regimes on diamonds and other goods, the UN was perceived as not having the political will through its member countries to carry out this mandate and therefore was not likely to develop an effective global certification process. The UN would also not have allowed for the tripartite negotiations that were possible in an independent process. Smillie speculates:

We didn't foresee a Kimberley Process. We didn't foresee something like this, so how, you know if we'd really thought long and hard about what specifically might happen I don't think we would have foreseen this. We certainly would have thought it would have to be under the UN or some international body. And

I think it's probably a good thing that it wasn't. I think everybody agrees that if we had gotten into UN mode; this is not a criticism of the UN, but if we had gotten into UN mode it might have taken forever. You know it just would have been you know sort of that UN style of diplomacy that just takes forever to get solved ... And we probably would have, NGOs would have been forced to be more polite and in fact, as long as it was sort informal and governments and industry and no clear direction, we could do as much campaigning as we wanted and talk about how bad it all was until we actually had a result. If it was the UN we probably would have had to be more circumspect. It's actually worked very well (Ian Smillie, interview, July 5, 2006).

Navigating Increasingly Separate Spheres: Formal Negotiations and the Public Awareness Campaign

In the months subsequent to this inaugural meeting of the KP, debate surrounding conflict diamonds occurred in two separate but connected spheres. On the one hand, media reports appeared in major newspapers, magazines, and television broadcasts, most intensely in the summer and late fall of 2000. By early 2001, conflict diamonds had become the subject of a full-blown consumer awareness campaign that included demonstrations in front of jewelry stores. On the other hand, formal negotiations between key stakeholders took place in the increasingly institutionalized setting of the KP, supported by other bodies, most notably the US Congress, the United Nations, and the World Diamond Council. While the public awareness campaign continued to pursue activities associated with agenda setting (i.e., putting and keeping conflict diamonds on the agendas of IGOs, states, other NGOs, the media, and the public at large), formal negotiations clearly marked the shift into decision-making. Many NGOs were active in both spheres. The distinction between the two spheres noted here shows up in the literature as insider-outsider dynamics that frequently occur in international campaigns (see, e.g., Donnelly 2002 on Jubilee 2000; Evangelista 1999 and Johnson 2000 on arms control and nuclear test bans; Hogenboom 2001 on NAFTA campaigns; and Nelson 1997 on World Bank opposition). As I show throughout the chapter, the public awareness campaign (the realm of outsiders) crucially aided the progress and speed of negotiations in the formal (insider) sphere.

The two spheres of NGO effort—the outsiders in the public consumer awareness campaign and the insiders involved in formal negotiations—reinforced each other in the decision-making process. “[A]lthough there was never an explicit campaign aimed at consumers, the industry saw the potential, as articles continued to appear around the world in every major newspaper and news magazine, and as ‘blood diamonds’ became a frequent topic on television news programs. Although NGOs took part in every KP meeting as full participants, the vociferous media campaign sustained pressure” (Smillie 2005: 2). By engaging in both a public awareness campaign and formal negotiations, an approach that continued throughout the

negotiations and even into the implementation stage, NGOs ensured progress in decision-making and the commitment of other actors, especially the industry. The public campaign was important because it held the threat of a boycott over the heads of the industry, keeping it on its toes in the early stages of decision-making. The continued threat of escalating the public side of the campaign is described by Smillie:

Smillie: One of the things that the NGOs decided a long time ago was that we would look forward. We wouldn't go back. You know De Beers had, when all of this started, they had \$4 billion worth of diamonds in the basement in Charter House Street for various reasons and a lot of those were blood diamonds. There's no doubt. You know if we had decided to go back and talk about war crimes and all of that sort of stuff I doubt we would ever have got an agreement. You know we'd still be fighting that stuff.

Bieri: Is that something you communicated to them, that that's something you weren't gonna do?

Smillie: We never said it directly. I think we always, it was always the chance that if things went bad, if the Kimberley Process didn't happen or if it failed then we would open up everything. We'd, you know, dig up every body we could find. But our objective was really to stop the wars. It wasn't to punish the bad guys (Ian Smillie, interview, May 4, 2005).

The formal negotiations were practically unknown to the general public. NGOs, industry, and some states issued press releases after KP meetings, but media reports focused on the horror stories related to diamonds, mentioning the KP only as a side note. The public awareness campaign also did not seek to bring KP negotiations to the attention of the public. For instance, no letter-writing campaign was launched to urge citizens to demand that their states join KP negotiations. Rather, the public sphere of the campaign occurred at some distance from the sphere of formal negotiations and the two spheres were characterized by different targets and frames, which explains why these spheres became more separated from each other over time.

The public awareness campaign targeted consumers to put pressure on the industry, while formal negotiations dealt largely with states. In terms of frames and discourse, formal negotiations centered on rough diamonds and technical aspects of the diamond commodity chain while the consumer campaign and media reports continued to frame the issue in terms of diamonds as a consumer product, i.e., cut diamonds as jewelry linked to brutal civil wars. To an untrained eye, a rough diamond does not look like a precious stone at all. Moreover, the level of abstraction and technical complexities of the diamond trade, such as the difficulties involved in identifying rough diamonds' place of origin, made formal negotiations inaccessible to the general public and thus distant from consumers

and the consumer campaign. Moreover, formal negotiations required expertise brought to the table by the diamond industry; NGOs and state officials had to absorb this technical diamond lingo.

The shift toward technical aspects of the diamond trade required for decision-making and solution building can be observed in the second KP meeting in Luanda in mid-June, 2000, and in a report published by Global Witness at that time. The meeting in Luanda was called a "Working Group Meeting of the Kimberley Forum". Technical details of a possible certification scheme were discussed and a basic outline of the KP's future development was proposed, though "we were still talking very vaguely and there was not really very much consensus about where we wanted this thing to land. Nobody knew what was happening" (Mark Van Bockstael, interview, September 27, 2005). In June, 2000, Global Witness's report "Conflict Diamonds: Possibilities for the Identification, Certification, and Control of Diamonds", which had been distributed at the first KP meeting in May, outlined practical solutions to "the deep-rooted problem of diamond-funded conflict" and "challenged the diamond industry to present practical solutions to the problem" (Global Witness website, *Chronology*, n.d.). The report recommended that countries trading in diamonds implement and enforce diamond certification and recommended creating a verification system monitored by an independent organization. It seems, thus, that major components of the KP had already crystallized by this time, such as certification that was implemented and enforced at the national level and formal monitoring. I discuss these further below.

Conflict Diamonds Make Headlines

What becomes evident from the events of the first half of 2000 is that the initial KP meetings and US Congressional Hearings on conflict diamonds preceded the peak period of splashy news reports and demonstrations. While a few protests were organized before the May 2000, KP meeting, most protest activities occurred in early 2001. Also, media exposure peaked at a time when some states, industry and NGOs had already begun formal negotiations.

News reports about conflict diamonds finally gained momentum in the summer months following the first KP meetings. A senior industry editor of the *Jewelers Circular Keystone Magazine* wrote, "The noise over 'dirty diamonds' keeps getting louder, and the sound and fury may signify trouble for the industry" (Bates 2000). What the industry and some states had hoped to avoid through proactive engagement seemed nonetheless to have occurred: a round of highly negative publicity, with articles appearing in July in the *Los Angeles Times*, *Washington Post*, *London Financial Times*, and *New York Daily News*. The *Daily News* asked, "Are diamonds becoming the next baby seals?" (July 2000, cited in Bates 2000). A "60 Minutes" segment was in the making and the *New York Times* featured four articles on the topic of conflict diamonds during the month of July. Probably most significant item was the July cover story of *Newsweek* (July 10, 2000) on conflict diamonds.

The media reports made the threat of a consumer boycott against diamonds seem real, though NGOs continued to insist that consumer awareness, not a boycott, was their goal. The industry blamed Global Witness's public relations efforts for the increase in news stories (Bates 2000). However, while Global Witness and other NGOs welcomed the news coverage, they can hardly be credited with this upsurge in coverage. No notable public protests occurred during these months. The sudden upsurge is better explained as a response to the increasing number of formal meetings, such as the United States Congressional hearings on conflict diamonds (May, 2000), the first and second KP meetings, and various other instances where conflict diamonds appeared on official meeting agendas (e.g., the G8 Summit in Okinawa in July 2000). Also, several developments in Sierra Leone, which since early 2000 had been the scene of the largest UN peacekeeping mission in history, continued to generate news stories. In May, the Revolutionary United Front (RUF) took more than 500 UN peacekeepers hostage and the Lome peace agreement, brokered in part by the United States in June 1999, formally collapsed. Thus, media coverage was both the result of and a reflection of the fact that conflict diamonds were high on the agenda of many institutions.

United Nations Involvement: Providing Templates for Solution Building

Decision-making was organized outside UN auspices because of concerns that the UN negotiation process would be slow and ineffective. As I elaborated in the agenda-setting stage, states, industry, and NGOs alike feared that every country in the UN would want to become involved, even those with no stake in the diamond trade. In addition, the UN's track record of years of ineffective sanctions did not inspire confidence that it could effectively tackle the conflict diamonds issue. However, the UN continued to serve as an important forum on blood diamonds and, while not directly involved in the KP, must be understood as the fourth player in addition to states, NGOs, and industry.

UN actions, such as reports by its Panel of Experts, hearings, and resolutions, served two important functions. First, the UN continuously reaffirmed that conflict diamonds were a serious social problem. The UN helped keep conflict diamonds on the international agenda, endorsing and eventually mandating the KP as a legitimate and important institution of decision-making (December 2000, UNGA Res. 55/56). Second, previous United Nations sanctions, albeit ineffective, would shape the solutions that were being considered in the KP.

The use of national certificates of origin emerged from certificates issued for Angolan diamonds:

[The idea of a solution for conflict diamonds] was basically already in the framework of the resolution on Angola, that is the use of certificates of origin. And the idea being that, well, why were the certificates of origin schemes of the United Nations not working for this? The conclusion quite early was very

simple. If only Angola has to issue certificates with the shipments of diamonds that they are sending to Antwerp and all the diamond trading places, then it is simply sufficient to call those diamonds another origin and you do not need that kind of technology anymore. So you don't need any certificate. So basically the idea was instead of asking passports of only Angola diamonds, why not simply have a unified system where everyone will actually have to use that particular passport. That was the basic concept and that's how we got to, an ... solution if you want, to this particular kind of practical problem (Mark Van Bockstael, phone interview, September 27, 2005).

Soon other countries in the region sought to impose their own national certificates to ensure continued confidence in their diamonds. In July 2000, the United Nations Security Council's Sanctions Committee held an exploratory hearing on Sierra Leone's diamonds, discussing how a diamond certification system could be developed that could serve as a model for other diamond exporting countries. This hearing emerged after Sierra Leonean diamonds had been sanctioned by UNSC Resolution (1306) in July, 2000. The UN hearing invited submissions by states, industry, and NGOs. Mark van Bockstael describes the discussions on Sierra Leone's certification scheme and the role of UN hearings in July and beyond:

And then in early July, I think it was the 5th of July, 2000, the United Nations Security Council landed a resolution with sanctions and embargo on diamonds from Sierra Leone. And that was quite immediately spurring into action. Why? Because there was also immediately, in that same resolution there was something saying that after one month, within a month there should be a hearing at the United Nations in New York about how to stop diamonds from fueling the conflict in Sierra Leone. And I think, if you want to find a kind of a critical point in history where people came all together and were trying to find a solution and came to similar ideas basically, I think it happened more even at the Security Council resolution hearing that was I think 30th and 31st of July, 2000, in New York. That was on the situation in Sierra Leone. And at the same time we had issued, and I'm pretty proud of that, because I'm the architect of that system, we proposed a certification scheme, certificate of origin scheme for Sierra Leone, at the Security Council. That was not just a certificate of origin, but that was a little bit more complex than that ... It still took until the 6th of September, 2000, for the Security Council to accept that due to vacation, ... I suppose, but it took them until that time before the Security Council was saying yes, that's the system that we want for Sierra Leone, and now Sierra Leone has to implement it. Implementation, I think we finished implementation the 12th of October, and the first shipment that came out with that certificate of origin in the new regimen from Sierra Leone happened on the 26th of October of that year (Mark Van Bockstael, phone interview, September 27, 2005).

Bockstael points out several important matters. First, the UN provided an ongoing forum for discussions of conflict diamonds. The UN certificate of origin scheme was seen as a short-term solution for Sierra Leone while the KP was working on a global long-term solution. Second, meetings like the New York hearing on conflict diamonds in Sierra Leone both helped ensure that conflict diamonds remained on the political radar screen and spurred industry and states into action. The diamond industry was very proactive in taking the lead in creating the Sierra Leonean certificate, after having been accused of not abiding by the certificate on Angola implemented two years earlier. Clearly, industry wanted to avoid similar accusations regarding Sierra Leone.

There were now two certificates in place, one for Angola, which NGO reports and the UN Fowler report had shown was highly ineffective, and the Sierra Leone certificate. Both of them influenced the shape of the global solution to stem the conflict diamond trade. “[I]t was apparent to a number of countries that a thin patchwork of national certification schemes would be insufficient to tackle conflict diamonds and to retain consumer confidence in an untainted product” (Wright 2004: 698). It became clear to countries leading early KP negotiations (South Africa, Namibia, Botswana, Britain, Belgium, Canada, and the United States), to NGOs, the industry, and to many in the UN, particularly Fowler and the Panel of Experts on Angola and Sierra Leone, that such certification must regulate the entire diamond trade rather than offer country-by-country guarantees.

Industry Meetings Put Conflict Diamonds Center Stage

Industry Shifts Attitude Toward NGOs

In July 2000, the largest American jewelry trade show was held in Las Vegas. Besides the newest collections by leading retailers, the conflict diamonds campaign also made it into the showrooms. Global Witness attended the trade show and participated in a seminar on conflict diamonds, which provided information about the most recent legislative developments on the matter in the US Congress. “If one didn’t know better, one might think the jewelry industry had suddenly fallen in love with Global Witness ... speaker after speaker hailed the group for bringing the issue to the industry’s awareness. Even the State Department had kind words for the organization” (Bates 2000). Such praise for the NGOs had a very different tone from that of De Beers’s testimony at the US Congressional Hearing two months earlier, where NGOs were criticized. The industry now sought to cooperate closely with the NGOs. Mark van Bockstael, the representative of the Belgium High Diamond Council (HRD), was quoted as saying, “The diamond industry now has its own NGO” (Bates 2000), which shows both how important Global Witness had become to the industry and also that Global Witness was seen as the definite leader of the conflict diamonds campaign.

This shift in industry attitude toward NGOs can be partially explained by the industry's mantra, "We don't want to be the fur industry", a worst-case scenario that the industry desperately sought to avoid. In the 1990s, wearing fur had become associated in North America and Western Europe with horrific scenes of cruel mink farming and trapped animals chewing off their own legs, after large scale public awareness campaigns like PETA's "We'd Rather Go Naked Than Wear Fur". The fur campaign became the main point of reference for the diamond industry, which had seen the damage an international campaign could do to a consumer product.

The World Diamond Congress

A major response signaling that the diamond industry did not want to suffer the fate of the fur industry came at the 29th World Diamond Congress in Antwerp in July 2000. The World Diamond Congress is a bi-annual meeting sponsored by two industry NGOs, the World Federation of Diamond Bourses (WFDB) and the International Diamond Manufacturers Association (IDMA). The 2000 Congress passed zero-tolerance resolutions regarding conflict diamonds and established the World Diamond Council (WDC), an industry organization whose sole purpose was to address the issue of conflict diamonds. The resolutions concerned specific mechanisms for monitoring diamonds, such as sealed parcels, standardized registration forms, a call for states to enact legislation about the importation of polished diamonds, and adoption of an ethical code of conduct by all members of the WFDB and IDMA. While the World Diamond Congress is "normally devoted to the technical and commercial aspects of the industry, this Congress was given over almost entirely to the issue of conflict diamonds. Representatives from states and NGOs, including PAC, participated, and the industry agreed on reforms that represent the most fundamental set of changes it had ever seen" (Smillie and Gberie 2001: 5). With the adoption of the ethical code of conduct, which required WDC members to trade only with legitimate sources or face expulsion from the association, industry players trading illegitimate or conflict diamonds became increasingly marginalized in the industry. However, only through the increasingly effective KP measures would the illegitimate trade shrink – industry internal measures could not ensure compliance and were not intended to stand alone.

The WDC is made up of mining, jeweler, and trading sectors of the diamond industry. It enabled the industry to develop a common stance on the issue of conflict diamonds and speak in one voice at the KP. "The establishment of the World Diamond Council (WDC) ... was critical to the effectiveness of contributions made by the diamond industry. The WDC was able to represent the industry from mining through to retail. It also meant that industry delegates were kept to a minimum and had a mandate to deliver policy options for discussion at plenary sessions of the Kimberley Process" (Bone 2003: 7). Thus, the creation of the WDC put conflict diamonds on the agenda of the entire diamond industry, even the large segments that had been unwilling to engage with the NGOs on the matter up to this point. The WDC extended the progressive stance of a few

industry leaders to the entire industry, which at least formally could no longer ignore blood diamonds or the KP.

Creating the WDC was not uncontroversial in the diamond industry, but the fear that a consumer campaign could spin out of control gave the WDC initiators leeway:

Well, you should not forget that people in the industry were extremely afraid that the NGOs were actually going to take their campaign to fruition or something. And that would have destroyed the livelihood of quite a number of people that are active in the diamond business. So these [industry] people they didn't object to anything at all. The only objective that they had was 'make sure that the NGOs are not going to launch their campaign'. That's it. And that was a very simple thing and we, to be honest we got a, and I'm not saying that we got a carte blanche or something, that's much of it, but all the big players obviously, that means De Beers, HRD, Rio Tinto, the big mining organization ... also the diamond banks, all of these said you have to do this. I mean you cannot stop this, you have to go all the way. And what happened after that of course is that the more you get to a full-blown agreement, the more kind of disassociation or resentment of certain factions within the trade you could hear. But that wasn't at the beginning. At the beginning they were just afraid, everybody was afraid that the NGOs were simply going to launch their campaign and that would cost everyone extremely dearly. That was basically the only thing that mattered to people at that time (Mark Van Bockstael, phone interview, September 27, 2005).

Bockstael stresses the importance of the material threats that led many in the diamond industry support the WDC. According to Bockstael, the WDC was supported by all of the major players in the diamond industry. A campaigner from Fatal Transactions argued that the WDC really is De Beers' organization:

It's been put to life for one reason only, De Beers is not the one that can talk to NGOs face to face and be strong ... it's a fake. I mean it's not, that's a bit too harsh. It's fine. But industry has one big problem. You either have a couple of big organizations like De Beers, and you have the smaller ones that do not feel represented by anybody. And when you are at the Kimberly setting, at a general assembly setting, it's one or two persons from the World Diamond Council sitting at the table. And behind them on the chairs, more or less next to us because it's NGOs and industry and then it's governments, there are people from De Beers and from Jewelers of America, and from the HRD in Antwerp who are feeding the World Diamond Council. It's just that De Beers could not sit there as a company. They had to have a branch organization. And I wouldn't say that it's De Beers only, it's not. But they are the biggest player. So yes it's useful, and on the other hand it keeps you away from the real players (Judith Sargentini, interview, July 17, 2005).

I have been unable to confirm whether De Beers was in fact primarily behind the creation of the WDC, but it can certainly be concluded that the “big players” were more supportive of the initiative and more concerned to respond with a common voice than some of the smaller companies in the industry.

While the NGOs welcomed these industry actions, they were also careful not to appear to be too close to the industry, producing carefully worded press releases on industry measures regarding conflict diamonds. “Civil society organizations, including Global Witness, welcomed the proposals for reform but were concerned about the speed with which they would happen, the actual agreement, implementation and monitoring of an international certification system and the need for civil society to be involved in the process in order to ensure its transparency and credibility” (Global Witness website, *Chronology*, n.d.). While NGOs remained skeptical of the WDC, according to De Beers’ Head of Foreign Affairs, Andrew Bone, the WDC facilitated better industry-NGO relationships: “a small, focused team from the WDC allowed a flexible and more intimate approach to engagement with the NGO community ... This is a direct result of the flexibility provided by a pan-industry organisation and its ability to carry out ongoing and often ad hoc meetings and negotiations with civil society between plenary sessions in addition to having the mandate to deliver on its promises” (Bone 2003: 7).

Early Decision-Making: Baby Steps

In the following months the KP was endorsed at a wide range of international governmental meetings, such as the G8 meeting in Okinawa in June 2000. Its communiqué acknowledged the urgency of the problem of conflict diamonds and supported the KP. That the topic of conflict diamonds made it on to the agenda and into the final communiqué of the G8 clearly showed that the issue had reached great prominence. This endorsement further reinforced the KP as the organizational vehicle for continuing negotiations on conflict diamonds. It is remarkable that after only two KP meetings, the KP had established itself as *the* decision-making forum. In an interview, I asked Smillie about the speed by which decision-making occurred and at what time it became clear that most activities around the campaign would be centered in the KP:

Smillie: I think almost from the beginning. After that first Kimberley meeting in May, 2000, there was an agreement that there could be some kind of certification system and all that was really required was for people who, you know, technicians to sit down and sort of work it out. It looked pretty simple after that first meeting. There would be a technical meeting, maybe two, and then there would be a ministerial meeting, and it would all be settled. You know, in the end it took two and a half years, and a dozen meetings, and lots of, lots of debate, and quite a bit of unpleasantness and so on before it actually worked out.

Bieri: How come it was longer than expected? Was it naive to think it would be so easy?

Smillie: Yeah. It was naive to think it would be so easy. I mean when have, you ever had an international agreement on anything after three meetings? Never. And something as complicated as this around a commodity that has never been regulated from the beginning of time and where there are all kinds of interests? You know, where some governments have direct interest. The government of Botswana owns half of their diamonds, so they've got a particular interest. You've got other countries that have been implicated in sanctions busting. You've got countries that have no idea what's going on in their own diamond industry. You've got some that are actively involved in smuggling and submarining and you name it. So there was just a lot of concern about what all of this meant (Ian Smillie, interview, July 5, 2006).

Attendance at KP meetings grew quickly. On the one hand, fear that the public awareness campaign would spin out of control encouraged a few lead states to take charge in bringing more players to the KP meetings. The lead countries (South Africa, Botswana, Namibia, United States, Canada, Britain, Belgium) were numerous enough to cause a "cascade" effect, bringing other countries into the negotiations. On the other hand, the naïve – and mistaken – notion that the problem could be solved in a few sessions and would not require major commitments or adjustments encouraged a number of unwilling or reluctant states to attend the meetings.

States' Attitudes Toward Tripartite Participation

Just two days after the World Diamond Congress met in Antwerp and created the World Diamond Council, an intergovernmental meeting took place in London (Lancaster House "Working Group Meeting on Diamonds"). While not officially part of the KP negotiations, it too provided diamond trading countries with a chance to discuss possible solutions to the conflict diamonds problem. Subsequently, no formal intergovernmental meetings on conflict diamonds took place outside the KP. In September, the Subcommittee on Trade of the Ways and Means Committee of the US House of Representatives held hearings on the trade in African diamonds. State officials as well as industry and NGO representatives gave oral testimony, indicating the general acceptance of the tripartite nature of the decision-making process. The NGOs testifying were Global Witness, Physicians for Human Rights, Women's Commission for Refugee Women and Children, and World Vision.

The third KP meeting was held in Pretoria on September 20–22, 2000, designated the "Ministerial Diamond Conference". This meeting was originally supposed to produce a definitive international agreement by October but that proved impossible, not least because certain states (including China, the United

States, and Russia) dragged their feet in the negotiations. The NGOs and the industry began to feel frustrated:

Overall, the process still was going at a quick speed forward and it was overly optimistic to think that October was a reasonable deadline, even NGOs acknowledge this today ... It would actually take 40 months – something of a record in such matters, but still much longer than was originally imagined. The issue was not so much the technicalities of the system, although these were complex, but the politics. Many countries came to the table with more than a little ambivalence to the entire concept. The United States (the biggest consumer of gem diamonds), Russia (the second largest diamond producing country) and China (an up-and coming polishing country) were at first hostile to the whole idea. For them the problem was a combination of workload, cost and issues around the regulation of trade. Others were late in coming to the table: India (with one million cutters and polishers) and Israel (one of the biggest trading centres after Antwerp). As the meetings grew bigger, the process became slower, while each new participant was brought up to speed (Smillie 2005: 2).

The growing size of the KP meetings slowed down the process, and the NGOs sensed with growing alarm that some states lacked commitment. For example, the United States' early opposition can be understood in terms of its foreign trade policy of liberalization of markets. Attempting to lobby the US to support the KP measures, the industry ran into strong resistance:

The biggest importer of diamonds is of course the United States, and that's where at the beginning there was absolutely no interest whatsoever to incorporate very difficult trade restraining legislation. Let's not forget people at that time were still talking about globalization, about liberalization, and about removing all borders and removing all barriers and so on to trade. The Kimberly Process was basically one of the first ... where we actually put the clock back. And where we are now going, what we were suggesting was in fact just the opposite. In fact don't remove the limitations and the trade restrictions on those diamonds, no. We just want more restrictions, and we just want to make sure that people that want to deal in rough diamonds will have to be presenting passports. Basically that's what it is. The US government was not at all up to that. They didn't see that at all (Mark Van Bockstael, phone interview, September 27, 2005).

While it may seem surprising that the industry lobbied the US government to adopt legislation, "It was really because the American jewelry industry was so scared of what would happen if there wasn't an agreement that they pushed the government to do the right thing. NGO's pushed the industry. Industry pushed the government" (Ian Smillie, interview, July 5, 2006).

Varying State Views of NGO Participation in the KP

While some states played a proactive and positive role in the KP, other states were skeptical about any changes that would be adopted in the KP. Smillie reviewed some countries' positions:

The Canadian government was on board with the thing fairly soon and became one of the leaders. South Africa and Britain were the first big leaders on this and then Canada then a couple of others. The Belgians, of course, were paranoid about the whole thing, but not destructive. The Russians, this whole thing for them was completely bizarre. I mean this was upsetting you know a very cushy kind of diamond business that was at least semi-corrupt and you know they just didn't get it. You know, what is all this stuff and who are these NGO's and what does this mean? (Ian Smillie, interview, July 5, 2006).

Thus, not only were some countries skeptical about the content and outcome of KP negotiations but quite a few states at this stage were still highly critical of the tripartite negotiation process, especially about having NGOs sit at the table as equals. Attitudes toward the NGOs varied from country to country and depended largely on whether or not states viewed NGOs as legitimate political actors or had prior experience with domestic civil society groups. "Russian governments, Taiwanese, Chinese, Japanese governments do not appreciate NGOs. They do not grasp it. They do not get it. And Western governments have learned to deal with us. South Africa as well. And they take you as interesting resources. And they've seen what you can do" (Judith Sargentini, interview, July 18, 2005). The opposition of some initially skeptical states weakened over time: "Many see us as a pain in the butt. But they have learned to work with us. You know it's a work in progress" (Dorothee Ngolo Gizenga, phone interview, May 5, 2005). While some states were initially highly critical, others made great efforts to keep NGOs at the table. Alex Yearsley from Global Witness recalls one meeting where some states "tried to stop us from coming in and certain governments said if Global Witness doesn't come then we're not going to come and the meeting will be cancelled" (Alex Yearsley, phone interview, October 5, 2005). Many of the states that joined the process late did not want NGOs at the table.

However, several factors ensured that the tripartite structure of the KP was not overturned. For the late-comer countries, the KP was a take-it-or-leave-it institution. In three meetings over a period of six months the KP had established its tripartite form. Moreover, proactive countries that sought to find and implement a solution insisted on continuing NGO involvement. They were accustomed to NGO input, they felt that the NGOs legitimized the negotiations, and the NGOs thus far had shown that they were professionals with valuable expertise. In summary, when state participation in the KP drastically expanded, the tripartite process had already been established and critical states had to accept it.

On October 25–26, the only official KP meeting without NGO representation took place. Some 36 countries came to this meeting in London, a record number. The purpose was to “create a broad consensus for strong multilateral action in dealing with the issue of ‘conflict’ diamonds” (WDC 2001). When I asked Smillie why that meeting was closed to NGOs, he answered the following:

I was there anyway. Well no, the Canadian delegation invited me to come because I was on, I had been on the UN panels and it wasn't just because of PAC. It was because of the UN panel and they said we would like, they wanted me to be there. So although it was ostensibly a secret meeting we were there anyway. I don't know why that meeting was that way. In fact it was a funny meeting ... I proposed some pretty tough resolution and it was kind of gung ho, yeah, yeah, let's do that. I remember the Americans said yeah, let's do that. And then one by one they started backing off. Somebody put their hand up and said no, wait a minute. And then they started backing away and I got really disgusted. I remember it was a big debate about it. But so it was kind of a funny meeting. Why the NGOs weren't there I don't know. I don't think there was any strong thought that they could do this without industry and NGOs ... The British must have offered to host that meeting. Why nobody was invited I don't know, but I don't think it was a big deal. I don't remember us being agitated or seriously upset. I mean the meetings were flying thick and fast (Ian Smillie, interview, July 5, 2006).

Most likely this meeting was limited to states because the main purpose was to finalize a document to be presented at the UN General Assembly. All subsequent meetings, even without any explicit or implicit NGO demands for inclusion, were organized in tripartite fashion.

From the industry's perspective too, tripartite engagement on the issue and collaboration with NGOs had developed positively during the decision-making process:

And the defining moment was at the first Kimberley Process meeting because what we discovered there was an, absolutely in the first place it was a relationship I couldn't say was brilliant, and there was a great deal of mutual distrust and suspicion. But then both Kimberley Process meetings in late 2000 gave us all the opportunity, the governments, NGOs, to meet under one roof for the very first time and we were shocked and amazed to discover that we actually did all have the same objective. And a realization that we had differing needs and were coming from a different angle of this. But the objectives were shared about the key point. And we discovered that NGOs didn't want to destroy our industry, ... and the NGOs realized that the legitimate industry did not benefit at all from the presence of conflict diamonds. And in fact it was very much not in their interest to have this issue. And our governments realized that they had a role in bringing a solution about (Andrew Bone, phone interview, July 7, 2005).

Thus, while demonstrations and negative news coverage continued, the frequent negotiation meetings among NGOs, industry and states led to greater mutual trust and respect. This is not to say that heated debate and disagreements did not occur. Tripartite negotiations were not just a smokescreen. They indeed allowed for and led to sometimes heated debates on the issues.

The United Nations and the Kimberley Process: Calculated Distance through UN Mandate

On December 1, 2000, the UN General Assembly passed a draft resolution endorsing the KP “which became the framework for the introduction of a global certification system and for nations to devise and implement national legislation regarding diamond trading activities” (Diamond Facts website, *Timeline*, n.d.). The UNGA’s endorsement grew out of previous UN meetings in special committees like the Panel of Experts on Sierra Leone. The UN endorsement (A/55L. 52) of the KP was later hailed as a key event: “The entire membership of the United Nations General Assembly – all 189 countries – accepted the need for an international certification scheme and approved a resolution (WDC website, n.d.). The political mandate in effect was an acknowledgement by the entire world community that conflict diamonds were indeed a problem that required solutions. The resolution reads:

... Encourages the countries participating in the Kimberley Process to consider expanding the membership of the Process in order to allow all key states with a significant interest in the world diamond industry to participate in further meetings, and to move ahead with the intergovernmental negotiating process to develop detailed proposals for the envisaged international certification scheme for rough diamonds, in close collaboration with the diamond industry and taking into account the views of relevant elements of civil society; Requests the countries participating in the Kimberley Process to present to the General Assembly, no later than its 56th session, a report on progress made; Decides to include in the provisional agenda of its 56th session the item entitled ‘The role of diamonds in fuelling conflict’ (UNGA Res. 55/56).

This mandate indicates the authoritative legitimization of the KP as the key global institution dealing with conflict diamonds. It also heightened the stakes of the KP and marked the official beginning of formal negotiations that should no longer be delayed or postponed. A specific timeline was established for KP progress. The resolution was important not only as a political mandate for the process but also as an endorsement of the participation by states, industry and NGOs, i.e., the KP’s tripartite structure. In fact, civil society and industry were more significant participants than the UN resolution suggests; it describes the negotiations primarily as intergovernmental. This description confirmed NGO fears that handling conflict

diamonds within the UN forum would not have allowed for a genuinely tripartite structure. It also showed that tripartite mechanisms were not yet in the vocabulary of the UN.

Holiday Season – Protest Season?

Most public awareness campaign events in Europe did not take place around Christmas or Valentine's Day, as in the USA, since diamonds are rarely given or advertised as gifts on either occasion. Other events were chosen instead; for example, Medico organized events on "Kirchentag" [church day] in Germany in June 2001, and April 2002, focusing on raising the awareness of children rather than adult consumers. One activity Medico sponsored was searching for diamonds in a sandbox.

On December 2, 2000, US Representative Tony Hall staged a protest with over 100 demonstrators in front of a Tiffany's store, near Washington, DC. This protest was held to support Hall's proposed bill (the Clean Diamond Act) in the House of Representatives. While US NGOs did not form an official coalition on the matter of conflict diamonds until Valentine's Day, 2001 ("The Campaign to Eliminate Conflict Diamonds"), Hall had already introduced his bill to Congress and had organized multiple protests. Five days after the Tiffany's protest, industry officials Cecilia L. Gardner (executive director of the Jewelers Vigilance Committee, a US industry organization) and Matthew A. Runci (President and CEO of Jewelers of America) met in Washington with representatives of Amnesty USA, World Vision, Physicians for Human Rights, and the staff of Hall's Congressional office to discuss congressional legislative efforts regarding conflict diamonds. The industry continued to worry about a consumer boycott, as NGOs kept the option of a boycott on the table. While Fatal Transactions explicitly stated that it was not calling for a boycott, its representatives also stated that they could not stop anyone else from instigating a boycott. The threats of further protests came mostly from Tony Hall's office rather than NGOs like Global Witness and Fatal Transactions, who were active in the formal KP negotiations. This again highlights the importance of the two spheres of activities: the public consumer awareness campaign kept pressure on the formal decision-making negotiations in the KP. The insiders try to get the best possible solution through the official political process while the outsiders take to the streets to continue to pressure the targets from the bottom up. Hall was involved in the public awareness campaign and in decision-making through his legislative endeavors in the US Congress, but not directly in the KP itself.

Conflict Diamonds and Cocktail Parties

Formal KP negotiations were accompanied by a variety of governmental and non-governmental meetings. "Although not a formal part of the process, a dozen other

meetings in various locales helped the parties to rehearse the issues and to grow more familiar with the challenges and each other” (Smillie 2005: 3). On January 10, 2001, some states, industry and NGO representatives met at the White House Conference on Conflict Diamonds called by President Bill Clinton in his last month in office. The call for this meeting occurred in the context of earlier activities in the State Department and in Congress about the war in Sierra Leone (above, Chapter 4). Also, the United States participated in KP meetings starting in May 2000, and strong lobbying efforts by the industry, fearful of negative consumer reactions in the world’s biggest market for jewelry diamonds, ensured that the topic stayed on the US agenda. The informal meetings allowed some of the participants in the KP to continue their discussions between regularly scheduled KP meetings.

There was the White House, the Clinton White House had a meeting on diamonds just in the last month of January whatever that was, 2001 just before the Bush administration came in and it was the same thing. It was sort of everybody who was anybody in the Kimberley Process plus some others, academics and others. So, again, we sort of rehearsed the arguments and in a way it was, these meetings were useful in demonstrating to I suppose to the American government or the Belgians or the industry that the issue wasn’t going to go away and that it really had to be dealt with. So there were a dozen meetings like that held in different places that were, that were useful. They weren’t exactly negotiating sessions but they, they helped to sort of clear the air on some issues among some of the players (Ian Smillie, interview, July 5, 2006).

Meetings like the White House Conference and various policy institute debates that followed provided a forum “where many of the protagonists met and debated issues that had become stuck at the more formal Kimberley meetings” (Smillie 2005: 3). Formal KP meetings gathered participants only every three months or so and these meetings were growing larger over time. Frequent, less formal meetings facilitated progress in the discussion: “In the diamond industry there are always receptions and cocktail parties; this has helped enormously” (Smillie 2005: 7). Invitations to governmental meetings like the White House Conference, and industry meetings like the Las Vegas trade show and the World Diamond Council, also led to informal receptions and parties accompanying these formal events. The informal meetings brought many of the key players together in settings where they could get to know each other personally. These meetings involved a limited number of relatively highly committed and active participants. Consistent with the formal process, these meetings always consisted of tripartite representation. Tripartite participation had thus already reached normative status.

A yearly meeting that provided an additional gathering outside the regularly scheduled KP meetings was the World Diamond Council (WDC), the industry NGO created in July 2000, to address the issue of conflict diamonds. On January 17–18, the World Diamond Council had its first annual meeting in London. Besides industry representatives from the mining, jewelry and trading sectors, the meeting

was attended by numerous NGOs² as well as state officials. Gary Ralfe, Managing Director of De Beers who hosted the conference, reminded the delegates of the WDC's purpose: "The diamond industry has clear moral and commercial reasons for wanting to rid the world of the trade in conflict diamonds. We do not want these people in our industry and we do not want to see them abusing diamonds. Diamonds are the inheritance of the people of Sierra Leone, Angola and Congo and should be used to provide development and prosperity, as they have done, and continue to do, for the people of Botswana, South Africa and Namibia" (address WDC 2001).

Kofi Annan, the UN Secretary-General, delivered another strong endorsement of the KP in his address to the World Economic Forum in Davos in January 2001. Under harsh attack by anti-globalization protesters, the WEF was looking for ways to burnish its image. On February 6, 2001, the UN General Assembly endorsed the KP, saying that it "Urges the implementation of the certification scheme as soon as possible, recognizing the urgency of the situation from a humanitarian and security standpoint".

Valentine's Day in 2001: A Broad Coalition of NGOs

Valentine's Day was chosen as the official launch date of the "Campaign to Eliminate Conflict Diamonds", sponsored by a consortium of nearly 200 NGOs in the US under the leadership of Physicians for Human Rights. "By 2001 the NGO participants in the Kimberley Process had created an effective coalition of more than 200 organisations, including large brand-name organisations like Oxfam, World Vision and Amnesty International" (Smillie 2005). The relevance of getting big brand name organizations involved is described by Ian Smillie:

I mean, because they are big name brand organizations. Although it is odd, some people in the Kimberley Process they have no idea whether PAC or Oxfam are the same size. They just don't know. Many of them never heard of NGOs before. So this is all new, but it helped with the media and with others when we had some of those big brand name organizations involved. And, of course, they could get letter writing campaigns going. There were a number of things that they could do that we couldn't if we really needed to get big numbers of people and they're still supportive, they're still involved, we can get funding from some of them (Ian Smillie, interview, May 4, 2005).

Thus it appears that the participation of Amnesty and Oxfam was most important for the public awareness sphere of the campaign; within the KP itself, large NGOs

2 Representing the NGOs at the first WDC meeting were: Chris Dietrich (Institute of Security Studies, Belgium), Charmain Gooch and Alex Yearsley (Global Witness), Ian Smillie (PAC), and Alex Vines (British Angola Forum).

were not seen as more important or carrying more weight. Nonetheless, the public campaign remained important and was noticed by participants in the KP.

They [NGOs] were the ones that were in the driver's seat, the ones that were basically putting enough power into the thing [KP] to make sure this thing was going somewhere. But we on the industry side, we also were willing to go fast because the NGOs were claiming that they were going to launch a campaign against all diamonds, not just blood diamonds, but against all diamonds since there was no way at that time to identify if your diamonds were actually a blood diamond or a conflict diamond or not. And to underscore that particular thing, when we were in that plenary meeting, and now I remember exactly the date of course because that, the 14th of February was falling in that period. And there you had that famous Shadow Campaign analogy that was done by Amnesty International in which, you see the Shadows Campaign was one of the most famous campaigns that De Beers actually had ever done in TV advertising, and Amnesty did something like that but, well it was a lot more sobering campaign I can tell you that (Mark Van Bockstael, phone interview, September 27, 2005).

Amnesty's animated ad replicated De Beers' famous shadow commercials, using similar music and a black-and-white setting. One clip shows a woman's hand extended; she is about to have a diamond ring put on her finger. The scene is interrupted by a clip of an African arm being chopped off by a machete. This ad appeared in conjunction with the broad coalition of NGOs launching the campaign – after NGOs had already found their way into formal decision-making and the conflict diamonds issue was already on the agenda of most states and the industry. This seeming reversal of the usual life course of a global social movement reflects not the failure of the public campaign to get underway in a timely fashion but the rapidity of the KP, which had already moved to decision-making. States and the industry attempted to act preemptively to avoid the negative effects of a public awareness campaign. But the public awareness campaign was fueled by growing frustrations with some states' unwillingness to move quickly and decisively in support of the KP.

Maturation of Decision-Making

The launch of Amnesty's ad and the US campaign overlapped with the fifth KP meeting, which took place in Windhoek, Namibia. This was the first time that the term "Kimberley Process" was officially used. Thirty-eight countries, as well as NGOs and industry representatives, attended. The meeting, which marked the beginning of formal KP negotiations, established a road map for the KP and set a deadline of October 2001, for completion of negotiations. By this time, several decisions had already been made, including the contents of the KP certificate,

the voluntary nature of the certification system, and the requirement that states implement national certification schemes based on internationally agreed minimum standards.³

Four more KP meetings were held before the October deadline for completion of the negotiations. In Brussels (April 25–27) arguments about the format and the appearance of KP certificates took place. Frustration with slow-moving states continued. “Tension between governments and NGOs became apparent at the end of an April 2001, meeting in Brussels when the NGOs there went public about their frustration with delays in creating a global certification system” (Smillie and Gberie 2001: 6). In the seventh KP meeting in Moscow (July 2–5) a first draft of “Essential Elements” circulated. This would become the official KP agreement. Agreement was also reached on the need for comprehensive statistics to track the trade in diamonds. The Moscow meeting was also notable because of the high level of frustration on the part of NGOs and the industry. Andrew Bone from De Beers:

For the first year or so of the Kimberley Process was not exactly making massive progress. But there was one defining meeting in 2001 in Moscow ... various government delegates were arguing over very pedantic, small points and driving us all crazy. But at the end of it, when a decision had to be made about expense ... they all, the government delegates said, well we can't make a decision let's make it a mandate. And this ... especially in retrospect ... wasn't quite reassuring. A scenario where business and NGOs were united in their fury against the governments, as basically in no uncertain terms they told the governments that they should go away and come back with people who can make decisions on this. Because we made, continued to make it clear that a solution had to be found because it was in the industry's best interest to have that done, and we did not appreciate government prevaricating and sending people who were too junior to make any real decisions. And so in the first place, the first year or so, it was slow going. But then once, the governments acted pretty well on that and actually did start getting government delegations that were serious, that had a mandate

3 In an additional development, in April 2001, the United Nations issued a report documenting the illegal extraction of natural resources and other forms of wealth in the Democratic Republic of Congo, moving beyond the issue of conflict diamonds as such. “This UN report is ground-breaking in that it looks at the illegal exploitation of natural resources, of which there are so many, rather than only diamonds” (Global Witness website, *Chronology*, n.d.). This broader frame did not enter into debates in the KP, however. While there was some sentiment among NGOs to broaden the campaign to include other natural resources, most campaign activities continued to center on conflict diamonds and the certification process. One reason for this was purely practical: NGO and state resources had already been stretched thin. “The cost consideration in traveling to frequent three-day meetings in places as diverse as Windhoek, Pretoria and Moscow is real” (Smillie and Gberie 2001: 6).

... And a policy development process began and proceeded very well (Andrew Bone, phone interview, July 7, 2005).

Thus, while the public NGO campaign targeted the industry, in formal KP negotiations states became the targets of both NGOs and the industry. They were blamed for delays and lack of commitment in decision-making.

Impact of the Terrorist Attacks of September 2001

The next KP meeting took place in London (September 11–13), with many issues to be reopened for debate. Representatives had just gathered for the meeting when they learned about the terrorist attacks on the USA. Closely following the developments while at the meeting, participants were spurred into action with an urgency many had not felt before. Mark van Bockstael again:

So at the industry level we were the ones that were trying to push our governments into action ... And basically to be honest in September we, after the holiday season, we were still at square one and we were not moving very, very, very, very much ahead. And I remember, well what I believe was a critical moment in the Kimberly negotiations was basically the 11th of September, 2001. It's difficult to imagine but you have this kind of bunch of NGOs and the field representative governments, of course including the US government and so on, sitting in the Rock Me Stadium in London, Twickenham, and watching on broad-screen the Twin Towers fall. That had a very, very, very sobering effect on everyone, I tell you that. And before we saw that in the morning, we didn't seem to be going anywhere. And in fact we figured, well this is it. Of course everybody in the delegation, we had some people from New York there, they were all afraid that people, friends or relatives might be involved in that particular catastrophe. So initially it was a complete mess as you can imagine. It was everywhere, I suppose. But the day after that when we were expecting that the US delegation was going to withdraw officially from the negotiations or something, we just had the opposite. In fact the US delegation was saying well, this is really basically the reason why we have to do this. And I think from the US Government's perspective, the imagination that diamonds could not just be used by African rebel groups, but also by the terrorists that were the ones responsible for the downfall of the Twin Towers, I think that was the most sobering reality that could be brought to them at that particular point in time. And I think that made an enormous change (Mark Van Bockstael, phone interview, September 27, 2005).

While the events of September 11 sparked progress in KP negotiations, some NGOs saw this link to terrorism as distracting from the problems facing Africa:

After 9/11 the issue of diamonds became a security terrorism issue. Al Qaeda had financed its work through diamond trade, Lebanese diamond trade and Sierra Leone, whatever. Global Witness used that to tackle the American government. We refused to use that because we think that means you make it a safety of Western people issue, and we wanted to talk about the safety of African people. Yes that's true. The development vision, that's what we brought in (Judith Sargentini, interview, July 18, 2005).

“Weeding Out Lingering Problems and Convincing Everyone to Dance”

In October 2001, a delegation from the European Commission (EC) began representing all European Union (EU) members in the KP. What this meant for both industry and NGOs was the loss of some important allies, as states were now represented through one EC delegation. For instance, Belgium had closely collaborated with the Belgium industry organization, HRD, and both parties had been participating in the KP. The entry of the EC changed the situation dramatically:

Until September 2001 the HRD, my own organization and the WDC, we had been sitting side by side. The reason for that was we didn't want to be absorbed into one single delegation when the NGOs had the right to sit with as many as they wanted and sometimes we had Partnership Africa Canada, then Global Witness, Amnesty International, ... Action Aid, World Vision, well you name it there were quite a few of these and they all had a voice in the discussion and we would have only one voice left if we were going to unify. That happened anyway. The next meeting that was after September 11th was in October 2001, and that was in Luanda. And what we saw there was that there was no space anymore for the Belgium delegation, there was just space for the European delegation, the European Commission delegation. And there was no space anymore for the HRD delegation, there was only space for the WDC delegation. That's how we got rolled into one if you want (Mark Van Bockstael, phone interview, September 27, 2005).

With EC representation, NGOs felt that they had lost some allies as well, most notably Britain, which was no longer separately represented in the KP.

About halfway through this, all the European countries were told to back off, that the EC would act on behalf of everybody so we lost their voice. Some of them continue to go to the Kimberley meetings but they are not supposed to speak so, I mean they can speak to us and they can support us and they can tell us things but they actually can't speak. It was bizarre. It was a power struggle right in the middle of the Kimberley Process. We went from a situation where Britain

was a leading player to a situation where they were actually told that they could not speak in the meetings (Ian Smillie, interview, May 4, 2005).

Although the European delegation was now drastically reduced, overall the Kimberley meetings had grown much larger since May 2000. Increasing size gave the meetings a more formal air but Smillie says that it did not change the input of any of the participants:

In some ways they [KP meetings] have changed quite a bit because they are a lot bigger. You know at the beginning there were only maybe ten or twelve governments that came to the meetings. Gradually, with each one, there were more and more and more governments and each government where there used to be maybe one person, now there is a delegation of four or five, some delegations are huge, so you get a lot of people involved so at that level there is more formality and so on. But at another level they haven't changed that much because really anybody who puts their hand up can get the microphone. There are not very many people and the good thing about government delegations is only one person speaks so it doesn't matter how big they are only one speaks and a lot of them don't have anything to say on a lot of issues so it is usually if there is something contentious it's not more than a dozen people debating the issue (Ian Smillie, interview, May 4, 2005).

This practice of according equal voice to both NGOs and the industry was – and remains – unique in such international negotiations. The continued openness also showed that the tripartite nature of the KP was not just for show; the actual decision-making process was a tripartite operation. Initially the NGOs may have been invited to the table primarily for legitimating purposes, and their presence owed much to the support of a few NGO-friendly countries. While the need for legitimation continued, NGOs' proactive and professional participation became a routine and appreciated aspect of the process, especially in the frequent meetings outside the KP that saw personal connections develop among the most active KP participants. Because the KP moved rather quickly from haphazard meetings of a small number of participants to large formal meetings, the same procedures that became established in the early days (May–October 2000) continued as a matter of course. The lack of institutionalized rules of the KP in essence kept the debate floor open.

Despite some changes in state representation, the most committed actors in the KP continued their negotiations both within and outside the KP meetings. The World Peace Foundation and the Carr Center for Human Rights Policy organized a conference on conflict diamonds at Harvard University on October 19–20, inviting representatives from the three sectors to discuss the KP.

[World Peace Foundation] decided to get interested in diamonds. A lot of people, you know institutions got interested in diamonds and sort of saw this as

something maybe they could make some hay out of. Most of them did it once or twice and then lost interest because it was too complicated. But anyway, they held a meeting at Harvard in conjunction with the Carr Center for Human Rights and they invited you know several government people and people from industry and NGOs to come and sort of talk about the issues. For them it was like they were discovering all of this. For us it was like sort of a rehearsal of the arguments for next time and we could actually, you know, get over some of the problems at these meetings. You know, we could sort of get some of the arguments out of the way. It was a way, I don't know, rehearsing and socializing and becoming more familiar with each other (Ian Smillie, interview July 5, 2006).

On October 30, at the ninth KP meeting in Luanda, which was originally set as the deadline for completing the negotiations, the agreement, now in its sixth version, failed to win acceptance. One month later, in a KP "ministerial meeting" in Gaborone, Botswana (November 26–29), a further attempt to finalize the agreement failed. Consensus had been reached on the broad measures the KP sought to implement but it remained elusive regarding relatively minor issues. "Beginning of December 2001 if you look at the proposal then on the table, and you look at the current situation, you will find that there is not so much difference there. But it took another year, a full year, to weed out the still lingering problems and to convince all the stakeholders that they had to dance" (Mark Van Bockstael, phone interview, September 27, 2005).

Meanwhile, in November, the US House of Representatives passed the Clean Diamond Act, a revised version of Hall's legislative bill. However, the Act was not put to a vote in the US Senate so it died a quiet death.

The Coltan Campaign: "No Blood On My Cellphone"

Some NGOs involved in the conflict diamond campaign were also involved in the launch of a new campaign, "No Blood On My Cellphone," or "Pas de sang sur mon GSM". This campaign focused on the trade in coltan (columbite-tantalite), a mineral used in the production of cell phones and other electronic devices. The DRC exports 65 percent of the world's coltan. The International Peace Information Service (IPIS) in Antwerp published a report, "Supporting the War Economy in the DRC: European Companies and the Coltan Trade" (January 2002), detailing the role of coltan in fueling conflict in the DRC.

Increasing attention to the coltan trade showed that the conflict diamonds campaign in many ways served as a successful template that could be applied to another natural resource. These developments are also an important indication that several NGOs, especially the KP outsiders that sought to stay involved in awareness raising activities rather than decision-making, were open to taking on new issues. The coltan/cell phone campaign was inspired by the blood diamond campaign.

The “blood” frame was a theme with which the public was already familiar, and the campaign targeted a consumer good – but one which was much more ubiquitous than diamonds. One campaigner described the situation as involving a more “real” product in the European market: “it also was something that we could show that’s in a mobile phone, well that is something. Diamond rings are way out of people’s league but a mobile phone is not” (Judith Sargentini, interview, July 18, 2005). The coltan campaign also encouraged wider involvement of Belgium NGOs, which had been cautious about joining the conflict diamond campaign. Fatal Transactions, the coalition behind the public awareness campaign launched in October 1999, by several European NGOs (Medico, Global Witness, NIZA, and NOVIB), explained:

Sargentini: The Belgium NGOs are very, were very frightened to tackle the issue because diamonds are such a big thing and so we did that ...

Hund: They’ve been doing quite some work on coltan, the Belgians, because of the DRC ... but diamonds, on diamonds they’ve never really been very active ...

Sargentini: And I think that’s because of it’s such a, it could turn against you in Belgium because so many people make, well especially in Antwerp they make a living out of diamonds (Hund and Sargentini, interview, July 18, 2005).

The Dutch NGOs took the lead on the conflict diamond issue; Belgium NGOs were hesitant to get on board.

Fatal Transactions officially joined the “No Blood On My Cellphone” campaign, as did several Fatal Transactions coalition members, such as NIZA and Medico. “[We] were very soon and very quick and very good in adapting to the coltan issue within the Fatal Transactions campaign ... the mobile phone, especially in 2002, everybody heard about that” (Judith Sargentini, interview, July 18, 2005). Global Witness preferred, however, to keep Fatal Transactions focused on diamonds. “Global Witness said, ‘We’re not moving to coltan. If you do that you blur the campaign’” (Judith Sargentini, interview, July 18, 2005). Global Witness had branched out to other conflict-fueling resource issues much earlier, as indicated by its 1999 report on oil in Angola, and its investigations were matched by increasing organizational capacity. While Global Witness was a small NGO when it started the conflict diamond campaign, it grew rapidly in size and stature. “[Global Witness] have grown much bigger. I mean, when I first met them they only had about four or five staff. I think they’ve got over twenty now so they’re a young growing organization that looks at a number of resources of conflict” (Ian Smillie, interview, May 4, 2005).

Initiatives to Address Underlying Development Problems

Moving beyond coltan and conflict diamonds per se, several initiatives emerged in 2000 and 2001 to address the underlying problems that made diamonds a source of so much violence and conflict. One immediate concern was the poor working conditions in alluvial diamond mining – diamonds that are extracted with basic tools along riverbeds – as opposed to industrial mines, extracting diamonds from underground kimberlite pipes. Soon after PAC released the report *Heart of the Matter* in January 2000, the “Campaign for Just Mining” was launched. It was initiated by the Network Movement for Justice and Development to “promote sustainable development in Sierra Leone by advocating accountability, transparency and social responsibility within the mining sector” (PAC and Global Witness 2004: 11). Similarly the “Peace Diamond Alliance” was launched in December 2002, to organize diggers in cooperatives and obtain better prices for diamonds sold by diggers. It is funded by USAID and managed by Management Systems International, a Washington-based consulting firm. The World Bank also became interested in mining issues, creating a Communities and Small Scale Mining office in March 2002. These initiatives started to draw attention to other problems associated with diamonds and became important in later stages of the conflict diamond campaign.

2nd World Diamond Council Meeting, March 2002

On March 12–13, 2002, the World Diamond Council convened in Milan for its second annual meeting. Nicky Oppenheimer, Chairman of De Beers, addressed the WDC: “We must continue our efforts to help bring the trade in conflict diamonds to an end. Not just because it has the potential to damage our industry and the integrity of diamonds, but *because it is right to do so*. We are the leaders of the industry and have a clear duty to the societies in which we operate to act, and act effectively” (Nicky Oppenheimer address WDC 2002). At this meeting the WDC adopted a “System of Warranties” requiring buyers and sellers of rough diamonds to put the following text on their invoices: “The diamonds herein invoiced have been purchased from legitimate sources not involved in funding conflict and in compliance with United Nations Resolutions. The undersigned hereby guarantees that these diamonds are conflict free, based on personal knowledge and/or written guarantees provided by the supplier of these diamonds”. The “System of Warranties” was intended to complement the KP certification. While the KP was to certify diamonds from the mine through the import and export process between countries, the “System of Warranties” would track diamonds from the point of import, through cutting centers to retailers. Thus the system of warranties did not include direct suppliers of diamonds and also did not include most traders, both of whom were to be covered by the KP. Penalties included the expulsion of individuals

or companies from global diamond bourses and from trade associations like the International Diamond Manufacturers Association.

Although this was just the second WDC annual meeting, some in the industry had grown impatient and started questioning the necessity and cost of the WDC:

As long as people are aware enough that that threat is real, they're really not complaining too much about, well basically they [industry] saw us [WDC] as a fire brigade, to put it like this, not more than that. As long as there's a fire with visible flames, the only thing that mattered was put them out, and that's all. But of course what happens, the flames were receding and people were thinking well, okay, fine, the NGOs might not launch at all, or maybe they couldn't launch. And that was a big debate then. Maybe they had overplayed their hand or something like that, and then obviously there was some other things. I mean these negotiations were starting to cost quite a lot of money. You shouldn't forget, the Kimberly Process had been traveling almost every consecutive month in 2001, from one place to another one. It was kind of a traveling circus almost. And people were, well, at the end of the thing they were pretty fed up with the whole negotiation phase. I'm not really talking about the people that were doing the negotiating, I'm talking about the people that were looking at us at a distance (Mark Van Bockstael, phone interview, September 27, 2005).

The growing disaffection of some in the industry also showed how important the consolidation of the industry voice within the WDC was. The WDC continued to invest in KP meetings and stayed engaged in the matter. Had it been left to the individual industry players, this support probably would have begun to fade in early 2002, greatly hampering KP progress.

WDC and NGOs

The WDC meeting produced appreciative words about the conflict-diamond NGOs, who were credited with reminding the industry of its responsibilities: "The NGOs that have been so instrumental in bringing our attention to this issue and showing the way forward in seeking a solution ... [they] deserve our respect for the intelligent, forthright and constructive way they have engaged with industry" (Oppenheimer address WDC 2002). Even though the WDC was not subject to KP tripartite norms, it invited numerous NGO representatives⁴ to address the WDC and subsequently posted their comments on the WDC website. "We would like to thank the WDC for inviting us to attend this meeting. While we feel that we have a *right* to participate in the Kimberley Process meetings, this meeting is yours. The invitation is a mark of the trust and confidence that we have developed in each

4 The following NGO representatives attended: Alex Yearsley (GW), Charmain Gooch (GW), Laura Ribeiro (GW), Umberto Musumeci (AI Italy), Ian Smillie (PAC).

other. If we disagree – on substance or on detail – we understand that we are on the same side in the fight against conflict diamonds” (Smillie address WDC 2002).

While both the industry and the NGOs expressed mutual appreciation for their good working relationship, they had different priorities for the upcoming months. The primary concern of the NGOs was continuing difficulties with the KP; for much of the industry, commentaries centered on a renewed wave of negative media reports linking diamonds to terrorism, particularly in the United States.

At the Milan meeting, the NGOs were not reticent about saying what they expected from the WDC. While not accusing the industry of inaction or resistance to regulation or KP measures, they expressed urgency about the need for industry collaboration to move sluggish states toward an effective KP certification system.

We demand that governments at the Kimberley Meeting in Ottawa take responsibility for the things under their control. But this is not our issue or theirs alone. This is the diamond industry’s issue. *All* of it. We do not want a repeat of the Botswana meeting, where NGOs alone spoke about the need for credible monitoring, good statistics and real deterrents. We want and expect the WDC to stand with us on these issues; as an active participant, not as a spectator. The WDC can and should lead on these issues. We know you can’t do it alone, and neither can we. You have everything to gain from joining us and doing what you can to end this business for once and for all. And the diamond industry has everything to lose if you don’t. And so do the people of Angola, Sierra Leone and the Congo (Smillie address WDC 2002).

With the ever-present threat of a boycott, an uneasy alliance had developed between the industry and the NGOs.

The greatest concern communicated in speeches by industry representatives was the upsurge in negative media reports linking gem stones and terrorism, once again threatening consumer confidence:

The news media scene in the US has gone almost totally negative since mid-fall because of *The Washington Post’s* al-Qaeda stories, *The Wall Street Journal’s* tanzanite articles ... The most recent *Post* story, on Feb. 26, underscores what is happening. Namely: the old conflict diamond problem, the diamond-terrorist link, and tanzanite are becoming co-mingled to a frightening degree ... The present media situation offers very limited openings for significant proactive PR efforts. The central problem is that just about everyone in the media who pays attention to diamonds or tanzanite finds the terrorist link irresistible ... The WDC must recognize that the terrorism factor has raised the stakes in the US and that this new dimension of our old problem isn’t going to go away very soon (Matthew Runci address WDC 2002).

Thus, while the speeches by NGO and industry officials suggested different priorities, and while the themes of terrorism and support for effective KP mechanisms seemed

at odds with each other, renewed fear of a drop in consumer confidence strengthened the industry's incentive to push the KP forward and maintain industry support for the WDC. Whether the industry and the NGOs would speak with one voice in favor of monitoring remained to be seen at the upcoming KP meeting in Ottawa.

Targeted States

On March 19, 2002, Global Witness and PAC were nominated for the 2003 Nobel Peace Prize by United States Congressmen Tony Hall and Frank Wolf, and by US Senator Patrick Leahy, for their efforts to end the trade in conflict diamonds. The nomination signaled widespread recognition that these two NGOs had played a crucial role in bringing attention to the problem and working steadfastly to seek solutions. However, the nomination did not seem to give the NGOs additional clout in the next KP meeting. They aired their frustration at the Botswana meeting and again in Ottawa in March 2002; the latter was attended by ActionAid, Amnesty International, Global Witness, Oxfam International, PAC, and World Vision. "The colour, the clarity, the cut and the weight of the agreement we have so far negotiated is inadequate. A 'fairly good' agreement is not enough. It is perhaps worse than no agreement as all" (Smillie address WDC 2002). The major disagreements blocking the way for successful KP certification, which to the great dismay of the NGOs remained officially off the table, were monitoring, statistics, bureaucratic organization (including the matters of a headquarters and a budget), and the KP's international legal status.

According to Smillie, states were skeptical of establishing a secretariat due to sovereignty concerns. "The real issue is not the definition of its tasks, or even the cost ...; it is a fear that this extra-governmental body, unmandated by a higher authority ... could in some way impinge on national sovereignty" (Smillie address WDC 2002). If the KP took the form of a legally binding treaty, it could be seen as impinging on national sovereignty; as a non-binding agreement, however, what would be the source of its authority? Up to this point, the KP's authority "... derived from voluntary participation, a UN General Assembly resolution, and related Security Council decisions. This is not good enough. If the KP is to have teeth, it must have a legitimizing mandate that goes beyond the wording of the thing we are not even allowed to call an agreement" (Smillie address WDC 2002).

In addition, NGOs sought a monitoring system that would be independent, transparent, and not subject to the whims of ineffective state diplomacy:

Monitoring of national KP control systems is the primary issue for Ottawa ... It is not negotiable; it cannot be watered down or leavened with vague wording ... conflict diamonds are not a trade issue, they are a security and human rights issue. Monitoring cannot be left to chance, it cannot be an optional measure.

It must be independent, impartial, expert and transparent. This does not mean it must include NGOs, but it has to be more than governments congratulating each other. It must be much more frank and much more critical than the level of discussion on such issues in the KP meetings themselves ... (Smillie address WDC 2002).

Not only were NGOs demanding independent monitoring, they were also frustrated with states patting each other on the back without engaging in the crucial and frank debates necessary for decision-making. KP progress was hindered because states refused to offer substantive criticisms of one another. States' diplomatic exchanges were belittled at best; at worst, NGOs perceived them as the major obstacle to progress towards the certification of rough diamonds.

Industry and NGOs in "Furious Agreement"

The G8 meeting, held in July 2001, in Canada, once more supported the KP in an official communiqué. However, G8 support was not clearly helpful regarding the stalled progress of the KP: "Important as these endorsements – engineered by concerned governments and NGOs – may seem, they did little to deflect some governments from the technical and procedural concerns they brought to the table" (Smillie 2005). NGO and industry frustration with some states continued. Some countries' trade or foreign policy objectives interfered with the process; China, for example, called for creation of an admissions committee that it could manipulate to ensure the exclusion of Taiwan from the KP. In addition, disagreement continued between the NGOs, who wanted a legally binding, compulsory system with independent monitoring, and states, who sought a voluntary system. The foot-dragging by states reinforced the alliance between the industry and the NGOs, what De Beers' representative Bone called a "furious agreement": "united in their frustration at the governments' intransigence and procrastination ... Both these parties have been able to adopt a more pragmatic approach to negotiations as a level of mutual trust has developed between them" (Bone 2003: 7).

Proactive states who had invested countless hours in the KP also did not like to see the process stall. However, they were not able to pressure other states in the same way NGOs or the industry could. Occasionally some states approached the NGOs to get them to work on states regarding a particular issue. Industry and NGO representatives sometimes even became messengers between states, communicating positions that were too delicate to be communicated directly:

I think quite a few governments understand not only who we are and what we are about, they actually find us very useful and they want us to be there. The whole thing wouldn't have happened if the NGOs hadn't pushed so that's the basis for this thing. But NGOs can get scrappy and say things the governments can't. We are often told things by government or even asked by governments if we would

not think about raising this issue. What do you think about this? Wouldn't it be a good idea if the NGOs actually, because they can't push it too hard themselves, but if the NGOs kept going we can be a lot stronger so we play a useful role for some governments (Ian Smillie, interview, May 4, 2005).

This quote shows that powerful states relied on nongovernmental actors, with no legal authority or financial clout, to achieve desired outcomes.

Diverging Interests Among NGOs

I have discussed above the two spheres of the NGO campaign—private KP decision-making by the “insiders” and continuing public campaigning by “outsiders”. The two spheres both created and reflected different NGO preferences and potential conflicts that lurked beneath the surface. Some NGOs concentrated their efforts in one sphere, some in the other, depending on their views, mission, and reputation. That is not to say that all NGOs worked exclusively in one or the other sphere. For instance, Fatal Transactions continued to attend most KP meetings throughout the decision-making stage and Global Witness and PAC, while concentrating on the KP, also participated in public campaigning through press releases and reports. Some NGOs deliberately kept their distance from the formal negotiations. Kirsten Hund and Judith Sargentini from Fatal Transactions described how they viewed Global Witness and PAC involvement in the KP:

Hund: I would say that especially Global Witness and Partnership Africa Canada are more or less part of the Kimberly Process right now because they are in all those working groups, technical working groups and all the nitty gritty details. So they all, they're almost one of the guys if I should say so.

Sargentini: That's a debate that comes after that. If you are accepted as useful source or as legitimate, or your demands are legitimate, and you are happy with that and you work with that, incorporation is close by. And that's what we've been very careful on, not to be incorporated.

Hund: It's very hard to be critical of a process that you're so much involved in.

Sargentini: Is it a small gain, or is it a loss? Is the glass half full or is it half empty? If I shut up about this mistake now will it get us something better? Or should I go public with this risking that they don't want to talk to me anymore? Is the risk worth it? It depends on how strongly you are involved and what decision you make on that (Hund and Sargentini, interview, July 18, 2005).

NGOs inside the KP were increasingly seen as “one of them”, engaged in technical decision-making and at risk of losing sight of their initial goals: “Global Witness

and Partnership Africa Canada are very much into the detail of the diamonds as such. We are into the issue of war economies and development” (Judith Sargentini, interview, July 18, 2005). Intimate NGO involvement was seen as jeopardizing the NGOs’ role as critical and impartial advocates of the victims of conflict diamonds. Such concerns for cooptation persisted throughout the implementation stage; I discuss them further in Chapter 7.

Larger NGOs like Amnesty International and Oxfam reduced their involvement in the public awareness campaign and never were closely involved as insiders in the KP process. Smillie reported:

Plus now we are actually out of the campaigning stage. You know the sexy stuff. You know where you show pictures of babies with their hands cut off, that’s gone, that’s finished. It is really boring, difficult, time-consuming stuff like these statistics that we are left with and a lot of those big NGOs don’t have the time for that. They want the big campaigning issue and so far it’s not bad. I mean we know that we can call on them if we ever have to for something. They are available and they will come to the main Kimberley meetings if it is going to be interesting or if we ask them, but on the details they certainly fall on the way (Ian Smillie, interview, May 4, 2005).

According to Smillie, an important commitment for NGOs was to designate full-time staff members to ensure that the campaign and goals stayed the course:

I think there’s a problem with Northern NGOs and campaigning. They like campaigns that are hot and sexy and when you know the, the hot part of the campaign has died down they lose interest. One of the reasons that we’ve sort of prevailed in this and have been the major players, Global Witness and PAC, is because we actually put full time staff onto it right from the beginning. I don’t think most NGO campaigns, no matter what they are, whether it’s Nestlé boycott or you name it, I don’t think many of them have full time staff. World Vision, Oxfam, Amnesty and a bunch of others that have been very concerned about this and have been very supportive and very involved never had full time staff. You know it was maybe half time, maybe quarter time, maybe even less. So you know when it really, when the hot part of it fades they have an even harder time justifying getting staff time for it. You know we tried to persuade World Vision and Oxfam and others to stay involved and come to the meetings and that sort of thing but very difficult. They, you know it’s not necessarily that the staff who have done it don’t want to do it; it’s that they can’t get the time. You know the campaigning department had two person-years, let’s say, at World Vision, and they’ve got six campaigns and diamonds just aren’t as sexy as they once were. So I mean I think it’s a lesson in terms of NGO campaigns that they really, the kind of resources that are devoted to some of these things are not great and staying power is limited (Ian Smillie, interview, July 6, 2006).

Changes in Fatal Transactions

As more effort went into developing the KP certification scheme, changes occurred in the public awareness campaign as well. For instance, Global Witness, whose reputation and organization had grown considerably through its work on conflict diamonds, left the Fatal Transaction coalition in late 2002. The coalition was founded in October, 1999, by Medico International (a German NGO), Global Witness, the Netherlands Institute for Southern Africa (NIZA), and NOVIB (the Dutch member of Oxfam). It organized multiple public awareness events in Europe during 2000 and published numerous articles and press releases on conflict diamonds. The consortium itself, however, was not represented at KP meetings, though some of its members, including Medico and NIZA representatives, attended early KP meetings.

Fatal Transaction coordinators Hund and Sargentini explain changes in Fatal Transactions and Global Witness:

Hund: I think part of Global Witness became so well known as Global Witness, the logo and the name Fatal Transactions was only keeping them back.

Sargentini: Yes, kept them back. And at a certain point it kept us back as well. With all the organizations we wanted to really put that name forward, but that was well how do you call that, history overtook us. And Global Witness was incredibly successful with its reports. And at a certain point decided that this was not necessarily part of the campaign, so they put the report forward themselves. And not mentioning Fatal Transactions, although we were sure that part of funding that we had together was put into those reports. So that's always difficult, always difficult. But let's be honest. We had to get together ... And then at a certain point you out-grow each other more or less (Hund and Sargentini, interview, July 18, 2005).

Thus, with its increased capacity and name recognition, Global Witness had outgrown Fatal Transactions. Global Witness was also much more involved in the KP decision-making process than any other organization within Fatal Transactions. The coalition came to be seen as a hindrance by other NGOs as well. One particular problem was that the coalition name did not give significant credit to any one organization. Kirsten Hund explains: "If you're in a campaign with individual organizations that all have their own name, their own logo, their own image, it's always a bit of a struggle, the name dropping issue is always a bit of a struggle ... Because we all depended, for the rest of the organizations we all depend on donors as well, so it's for NIZA, Medico or Global Witness, it's very important to get that

name in the papers as well. That's always been a bit hard to find" (Hund, interview, July 18, 2005).⁵

Despite differing views, changes in coalition membership, and decreasing participation of some NGOs, the public awareness campaign continued and major KP meetings drew a wide range of NGOs. Most importantly, close collaboration between Global Witness and PAC continued:

As the KP got started then we were just in regular communication. It's almost as though we sort of work in the same organization in some ways. They do things very differently and they've got a lot of other fish to fry but where diamonds are concerned I think we're pretty close and you know where we disagree, we just do things differently. That's it (Ian Smillie, interview, May 4, 2005).

Interlaken: "The End of the Beginning"?

After one additional technical meeting in Pretoria in November, 2002, and a year later than originally intended, the KP plenary meeting adopted the final text of "essential elements" in Interlaken, Switzerland, on November 4–5. In all, 37 states plus the European Union adopted the Kimberley Process Certification Scheme (KPCS) to regulate the international trade of rough diamonds. "De facto, every country present at the Interlaken meeting became a participant by virtue of its representative raising a hand" (Smillie 2005: 4). Countries initially blamed for delaying the agreement had largely been appeased in the meetings leading up to the Interlaken plenary. For instance, China achieved its goal of excluding Taiwan from the KP.⁶

While negotiations ended much later than the original deadline, the KPCS nonetheless set a very fast pace in creating an international certification system through tripartite negotiations. "Two and a half years is lightning speed by international negotiating standards" (Ian Smillie, interview, July 5, 2006). The tripartite character of decision-making was absolutely essential in bringing the process to fruition, especially – of course – in the eyes of the NGOs:

The NGOs played a crucial role of pushing, of nagging, of annoying. Let me tell you that way. You know because for most people they just wanted to leave the

5 This is a common issue in many NGO coalitions and global campaigns, although some coalitions specialize relatively early on and develop a clear division of labor based on NGOs' expertise. Tension in such coalitions is probably inevitable. Overall, NGO representatives stressed positive attitudes and felt that the tensions were much less pronounced compared to other campaigns in which they had been involved.

6 Taiwanese representatives continued to attend KP meetings as observers, however. Taiwan implemented the KP and is listed as KP compliant so it is authorized to trade with other KP participants.

things the way they were and what we know that nothing would have changed if a push was not done. And we didn't always get along, I mean the NGOs and governments and the industry, we didn't always see eye to eye. Because we were very demanding. Nothing was good enough for us, nothing was sufficiently done for us, it wasn't done fast enough while the governments were taking typically all their time. So the role, even the speed at which the process has been put in place, the role of the NGOs has been essential. Having said that, it was also very helpful that there were some very progressive governments that saw the need to take the leadership on this issue such as the government of South Africa. And that became the first chair of the KP. Their leadership on this matter was quite essential (Dorothee Ngolo Gizenga, phone interview, May 5, 2005).

Thus, NGOs' involvement and persistency were crucial not only in terms of reaching an actual agreement but also with regard to the speed that decision-making unfolded.

Interpreting Decision-Making

One crucial distinction between the decision-making stage and the agenda setting stage is the locale in which the political process unfolded. The global campaign moved from a highly diffuse global agenda in the first stage to the identification of numerous but specific institutions charged with solving the problem in the second stage (the KP and WDC). During decision-making, stakeholders and representatives important for solution building are identified and charged with the authority and responsibility to produce results, while the agenda setting stage is concerned with convincing stakeholders to "care" about the situation, to be appalled by its horrors and become committed to working on solutions, i.e., to ending the conflict diamonds trade.

The decision-making stage began with a meeting that convened six states, a handful of NGOs, and industry officials in Kimberley, South Africa, in May 2000. Two and a half years later, more than thirty states plus the EU signed on to an international certification system to ban the trade in conflict diamonds. The KP initially included NGOs primarily for legitimization purposes, and the NGOs' presence did not go unchallenged as more states joined the process. However, the early tripartite meetings set a precedent for KP operations and states came to accept, appreciate, or at least tolerate having NGOs as equals at the negotiating table. In any case, the NGOs were not mere window-dressing. Both they and the industry were fully engaged in creating solutions. Parallel events regarding conflict diamonds at the UN, at think tanks, and in some state fora reinforced the legitimacy and centrality of KP negotiations and their tripartite nature. These meetings gave decision-makers additional opportunities to rehearse and develop their positions in preparation for official KP meetings. While the negotiations were underway, the public awareness campaign continued to expand, culminating on Valentine's

Day, 2001, with highly visible events and publicity. The public campaign and the latent threat of a consumer backlash kept the industry and states committed to the KP negotiations. While adoption of the KPCS was delayed at various points and NGOs and industry grew frustrated with sluggish states, an agreement was reached in record time.

Next, I recall significant events that facilitated moving negotiations successfully toward an agreement and draw some additional conclusions that stand out as particularly crucial in the decision-making stage.

Moving Quickly Toward an Agreement

KP negotiations successfully moved toward an agreement in a relatively short period of time for several reasons. In brief, they were these: the KP quickly emerged as the primary and undisputed forum for negotiations; the industry consolidated into one umbrella organization (the World Diamond Council); the continued threat of a boycott kept pressure on the industry and states; and the tripartite KP structure helped overcome obstacles and delays.

A scattered array of efforts and events regarding blood diamonds were consolidated into a single forum with the first KP meeting. It produced initial substantive discussions about solutions to the conflict diamonds problem and all of the principal parties were on board from the beginning. During the decision-making stage, other conflict diamonds events organized by states, think-tanks, and IGOs carried considerable significance but they reinforced rather than competed with the KP. These parallel meetings should be understood as supporting and supplementing the KP, which they endorsed as the legitimate and authoritative forum for the diamond discussions. They also increased the pressure on other countries to join the KP by keeping conflict diamonds high on the global political agenda.

Several factors facilitated this external support for the KP. To begin with, the first KP meeting was quickly followed by a second meeting, signaling the on-going nature of the process and the commitment of the parties to the negotiations. Had NGOs not been invited, it is doubtful that they would have endorsed any further negotiations. When the industry and states gathered in Kimberley, it was understood that some sort of solution must be fashioned; a show of good will at one or two meetings was not going to quiet the global hubbub that had arisen in the agenda-setting stage. This encouraged follow up meetings. Similarly, increased media attention in subsequent months further heightened the stakes and facilitated continued commitment to the KP beyond the initial meetings.

The World Diamond Council

An additional important development in reinforcing early KP efforts was the establishment of the World Diamond Council (WDC), an NGO created by leading trade associations of the diamond industry to address the problem of conflict

diamonds and represent the industry at the KP. The founding of the WDC resulted from the active engagement of De Beers and Belgium's High Diamond Council, the leading company and the dominant trading center of the global diamond industry, both of which had been engaged in the issue for some time. Martin Rapaport, a United States diamond mogul, had been calling for the industry to do something about the problem as well. These leading industry players received the support of other less enthusiastic but nonetheless pragmatic industry figures. By the summer of 2000, with unprecedented media coverage and numerous international meetings addressing or mentioning conflict diamonds, the fear of a consumer boycott had spread widely in the industry, prompting the creation of the WDC. It kept conflict diamonds high on the industry's agenda, an especially important factor when media attention faded, decision-making negotiations dragged on and costs of KP participation grew, and the overall urgency of the problem had subsided.

Material incentives were particularly important to garner enough support in the diamond industry at large to create the WDC and give it the authority to represent the industry as a whole. Reluctant industry players not previously interested in engaging with the NGOs on the matter of conflict diamonds feared that the dramatic increase in media attention in the summer of 2000 would eventually hurt demand. Still, both before, during, and after the year 2000 there were no signs of falling sales. While no major industry surveys were launched to gauge consumer awareness or reactions, the growth in media coverage and continued public awareness campaign activities by some NGOs gave proactive industry leaders sufficient leverage to convince others in the industry to unite as one industry voice in the WDC.

By the same token, industry leaders (Rapaport above all) were again guided by their sense of moral responsibility to help end the trade in conflict diamonds. These more engaged industry figures also learned that the NGOs were not seeking to destroy the industry, as they had initially feared. They had in mind, of course, PETA's anti-fur campaign, which tried to shut down the entire industry. In their engagement with NGOs during agenda setting and early decision-making, they learned that the NGOs wanted to protect the legitimate diamond trade because of the importance of legitimate diamond mining to large populations in conflict-free African states. This NGO position made the industry more willing to engage with the NGOs in the KP. Rationally, the industry could have taken this hesitation to call for an outright boycott as a reason not to engage with the NGOs at all. I have elaborated in detail in the agenda setting stage the reasons – greater exposure to CSR principles, more experience with NGOs, etc. – that some in the industry (and states) were more likely to become engaged, leading those actors to move more quickly to accept and endorse new norms on regulating the diamond trade. Moreover, these actors had already “talked the talk” and were now under greater pressure to live up to their promises to solve the problem. This pattern parallels that of theories about states entering a norm spiral by making verbal commitments (Risse et al. 1999).

The creation of the WDC is also significant as it emerged in a highly unregulated industry. The diamond business is characterized by both trust and suspicion. Suspicion is largely related to the monopoly power of De Beers. Trust and reputation thus far were the basis for many business transactions, frequently lacking any transparency and little formality. Any certification was clearly going to bring monumental changes to such business practices and concerned not only individuals involved in illegitimate transactions (including conflict diamond trade as well as tax evasion practices, bribery). The creation of the WDC representing the entire industry in support of a process that would likely result in extensive regulation is therefore remarkable.

One aspect runs counter to commonly held assumptions about international campaigns. At first glance, the formation of a single centralized industry organization may seem detrimental to the campaign, combining the strength of multiple powerful TNCs. But the case of the WDC and the conflict diamonds campaign shows the opposite: NGOs were better able to engage the industry and work with the industry to engage some states through the centralized structure. Of course, this was the case because the WDC took a positive position *vis-à-vis* the KP and generally agreed that solutions had to be found to end the trade in conflict diamonds. In many campaigns a similar scenario might not hold true; companies or their trade associations are often unwilling to compromise. Nonetheless, the decision-making stage in this campaign shows that a centralized industry organization was important in moving toward implementation. Without the WDC, it is doubtful that the KP could have effectively operated in a tripartite manner.⁷ The WDC lowered transaction costs not just for the industry, but also for NGOs and the KP in general. The WDC helped to institutionalize the process that would set standards for the entire industry.

Moreover, it is via the WDC that corporate norms on the clean diamond trade spread more widely across industry actors. The KP indirectly achieved greater transparency throughout the diamond industry via the industry's self regulation which complements the KP. This system of warranties, is an important addition to the KPCS, since it regulates cut and polished diamonds, while the KP only regards rough diamonds. As such the industry self regulation seeks to ensure that conflict diamonds are not cut and polished on the black market and then returned into the trade pipelines, mixing certified with conflict diamonds. Under this self regulatory system, invoices accompanying the sale of cut and polished diamonds and diamond jewelry, guaranteeing the conflict free origins. This warranty system is monitored by independent auditors and is accompanied by a code of conduct which binds all World Federation of Diamond Bourses and International Diamond Manufacturers Association members to these industry standards. Noncompliance leads to the expulsion of those trade groups. This self-regulating system had

7 Pulver (2004) discusses the difficulties that can arise with divided industries represented in unstable and changing coalitions in his treatment of UN negotiations on climate change.

important effects regarding corporate accountability in the diamond industry. It served as socialization mechanism for corporate social responsibility (CSR) and extended those norms more deeply to different segments in the diamond market.

State Involvement and UN Endorsement

It is difficult to say when a critical mass of state participants was reached. Even at the first meeting, the KP had a critical mass in that all major diamond producing and consuming nations were represented, but it clearly had more clout by the fall of 2000 when over 30 states attended the meetings. Growing state participation in the KP negotiations was a sign that conflict diamonds had truly taken a prominent position on the global agenda during the first stage of the campaign. Finnemore and Sikkink's (1998) norm development theory is well supported here. They show how a norm cascade can be achieved, given sufficient global attention in various fora and efforts by key states to engage other states and build momentum to ensure the implementation of a solution or norm. The decision-making stage of the conflict diamond campaign shows how quickly this process can unfold. It also shows that the process can involve NGOs and industry in addition to states, and that it can occur outside of existing global governance structures such as the United Nations (more on this below).

Once many states were engaged, the challenge was reaching consensus on actual solutions. The fifth KP meeting in February 2001, after the UN offered its formal endorsement and charged the KP with solution-building, demarcated the official recognition of the formal KP process as the global arena by which to resolve the conflict diamonds issue. The UN's endorsements lent the KP credibility and legitimacy. Negotiations continued thanks to the political and economic will of certain industry and state players, but their commitment might well have faded without the unceasing pressure from the NGOs. It spurred the KP to make progress despite the fact that unsupportive states had to be dragged along. Several characteristics of the final KP agreement itself also helped make states willing to move to implementation. Those will be elaborated further in the next chapter.

Insider and Outsider NGOs

In this stage the campaign split into two increasingly separate spheres: the public awareness campaign and the more formal and technical decision-making effort in the KP. Some NGOs concentrated their efforts in one sphere, some in the other, depending on their views, missions, and reputations. That is not to say that all NGOs worked exclusively in one or the other sphere. These observations on the insider-outsider dynamics parallel similar findings on other campaigns (e.g., Evangelista 1999; Donnelly 2002; Johnson 2000; Hogenboom 2001; Nelson 1997). In many ways the distinction resembles what Princen (1995) described in his case study of the environmental transnational coalitions that worked to end the ivory trade. He categorized the NGOs involved in this coalition as professional vs. public opinion

organizations. The former are frequently funded by foundations and states with professional staff (including scientists) and are often based in the North, with close links to relevant international organizations and governments. The public opinion arm “relies on high-visibility campaigns designed to sway public opinion and specializes in specific animals or ecosystems but readily adopts other issues where they gain ... the public’s attention. Seeking immediate victories, they are not organized to promote, much less implement, long-term solutions” (231). That is exactly what we observe with regard to the public awareness NGOs – many of them faded away when the less newsworthy and more technical KP negotiations started. However, the conflict diamond campaign also showed that the public awareness campaign continued to be important and experienced a revival in the last campaign stage.

In essence, the public sphere of the campaign continued tactics from the agenda-setting stage, ensuring the continued commitment of states and the industry to the KP and thereby helping to keep the formal sphere of negotiations operative. While the technical negotiations of the KP were less newsworthy, the public awareness campaign continued to keep the conflict diamonds on the front burner. This was crucial to ensure continued commitment to the KP by various state and industry players, and it helped strengthen the role of the NGOs in the formal process. They could demand more from the industry and states – a better, all encompassing, and tamper-proof agreement – and move quickly toward implementation. NGO involvement explains why the process moved at an unprecedented speed: without the on-going threat of an escalating consumer campaign, the KP almost certainly would not have produced satisfactory results, and certainly not at such a rapid pace.

The split also led to tensions that are common in international campaigns. Specifically, concerns about cooptation arose: outsider NGOs involved in the consumer awareness campaign accused the insider NGOs of getting too close to states and the industry. This problem has often been noted with respect to other international movements or campaigns. But, while accusations of cooptation often arise, the insider-outsider division can lead to a more effective division of labor that allows different NGOs to do what they do best. Furthermore, I found that the participation of Amnesty and Oxfam was most important for the public awareness sphere of the campaign; within the KP itself, large NGOs were not seen as more important or carrying more weight, and they did not have anywhere near as much influence on the process as the small NGOs.

Overall, NGO involvement in both spheres was crucial for making rapid progress. Having the campaign unfold in these two spheres also had another important benefit: the NGOs participating in decision-making were not at the same time hurling blood-diamond approbations at the industry and states or circulating gruesome pictures of victims of civil wars. This made their interactions with industry and state officials easier.

The threat of consumer pressure prompted proactive industry leaders to convince others in the industry to support the WDC and to speak with a common voice at the KP. Without this threat, Eli Izhakoff and others would not have had

carte blanche to represent the entire industry, spending money and effort in a process that would result in extensive state regulation of the entire industry.

Also, the consumer awareness campaign resembles what Evans (2000) describes as a transnational consumer network that uses purchasing power as a global political tool. The diamonds case shows, however, that the mere potential threat of a boycott can be effective in prompting an industry response (Bieri 2006). With the constant, sometimes latent and sometimes real threat of a reinvigorated consumer campaign hanging over their heads, the industry and states were kept on their toes. This threat was more real during the decision-making stage than during agenda setting, when mainstream news coverage of conflict diamonds had not yet occurred. In fact, NGOs increased pressure on TNCs to the point that the industry joined the NGOs in pushing states for more action and speedy responses. The industry, under pressure from NGOs, exerted leverage over some states that were slowing progress in the KP. NGOs did not expect the industry to become their allies, and the industry easily could have blamed sluggish states for a negotiation stalemate, shifting the blame and responsibility while not incurring the costs of new regulations that might stifle business.

Moving Formal Talks Outside the United Nations System

A surprising development in this stage was that core activities regarding conflict diamonds did not stay within the UN forum. Why did negotiations on conflict diamonds occur outside UN auspices? While the UN continued to address the conflict diamonds problem and set the context with regard to panels of experts, sanctions, and resolutions, parallel efforts outside UN auspices defined the process from 1999 onward. Although the war in Angola provided the initial impetus to the conflict diamonds movement, notably within the UN, the later war in Sierra Leone was the key event that eventually became almost synonymous with conflict diamonds. The UN would not become critically involved in Sierra Leone until the summer of 2000. Sierra Leone in effect pulled the campaign out of the UN context: in the first half of 2000, events centered on the Sierra Leone war unfolded rapidly in all fora except for the UN. NGOs, industry, and individuals in several states put the wheels in motion. The Fowler report on Angola was released in March and it resulted in a UNSC resolution on monitoring mechanisms for the sanctions on Angola but Sierra Leone was still below the UN's radar screen. One explanation for this inaction is that the Lome peace deal brokered by the United States and Togo was in place and viewed as binding on the signing parties; in effect, the Sierra Leone problem presumably had been "solved" already.

Despite the supportive role the UN had played thus far, decision-making moved outside its jurisdiction. With greater momentum building in the other fora, especially the KP, participants began to appreciate the advantages of keeping the process outside UN auspices. It would be too much to say that the KP was created with the definite intention of moving negotiations out of the UN since no one at that time could have predicted the course or significance of the process that

followed on the initial meeting of what would become the KP. Nonetheless, there were important reasons to initiate these negotiations outside UN auspices and keep them there.

First, the UN exhibited institutional limitations. Many KP participants, as well as non-governmental representatives, feared that the process would be delayed if it stayed within the UN. The public awareness campaign continually stressed the urgency of the issue – thousands of people were dying and hundreds of thousands of refugees were fleeing – and some states and industry players felt that action must be taken more quickly than the UN process allowed for.

Second, the UN was a questionable venue because it had failed to enforce sanctions effectively, essentially tolerating the trade in conflict diamonds (and of other goods for which sanction regimes had been mandated). The UN and its member states thus were seen as lacking the political will to tackle the conflict diamonds problem; an effective global certification process from that arena did not seem likely.

Third, UN activities regarding conflict diamonds were conducted on a nation-by-nation basis. Conflict diamonds came up separately in numerous sanctions and expert committees (Sierra Leone, Angola, and later, Liberia). The UN organizational structure did not easily accommodate a global and all-encompassing approach to the conflict diamonds problem, but NGOs, individual states, and the industry were increasingly convinced that such an approach was necessary. The failure of the Angola certificates-of-origin scheme had made that clear: without regulation of all diamond trading activities, Angolan diamonds from rebel-controlled areas were easily smuggled or misidentified and made their way onto world markets. But a global solution within the UN would involve the long and arduous process of creating a multilateral treaty, which was perceived as much too slow a process.

Fourth, industry and NGO participants realized that they would be almost entirely sidelined if the conflict diamonds problem stayed within the UN. Below I will detail why tripartite participation was so eagerly sought.

Finally, the UN did not seek ownership of the matter of conflict diamonds but welcomed and quickly endorsed the first KP meeting, which was outside its auspices. The UN member states and bureaucrats involved on matters relating to conflict diamonds realized that its past responses did not produce consolidated or effective responses. UN leaders also realized that addressing the issue in the KP was likely to produce speedier solutions than any UN response would allow for. If the KP was going to be successful, it would also aid and ease the burden on several UN country specific responses and sanctions. Moreover, Kofi Annan, himself having launched the tripartite Global Compact, and others in the UN were supportive and sought to encourage a solution that could involve the industry and NGOs, realizing that the UN could not allow for a tripartite process.

The Influence of NGOs in the Decision-Making Stage

How were small, weak NGOs able to influence the decision-making process of the KP? The tripartite setup allowed NGOs to be directly involved and influential. How are we to account for this structure, which granted NGOs and the industry equal access and input in the decision-making stage?

That NGOs and industry were invited to the first KP meeting can largely be explained as follows. The industry necessarily had a voice in negotiations because it owned or co-owned the mining operations and ran the world diamond trade. But including the industry without also opening the door to NGOs would have made the entire process suspect, evoking charges that only special interests and commercial motivations were at work. Thus, initially the tripartite structure was a legitimization device: the NGOs legitimized the process by their presumed capacity to keep states and the industry in check (a capacity that even industry officials eventually realized was in fact considerable). The NGOs would ensure that negotiations were perceived as good-faith efforts to solve the conflict diamonds problem. Moreover, the NGOs had established themselves as experts on the matter and as reasonable and seasoned political participants; some states and the industry sought NGO involvement for their technical savvy as well.

But the KP's tripartite nature was not merely a legitimating smokescreen; it actually gave nongovernmental organizations an important voice. This was evident in informal but important aspects of decision-making, such as hallway discussions and cocktail parties. It was also evident in the fact that the KP structure quickly became a normative standard for all activities related to conflict diamonds. Other institutions tackling the issue, such as the White House conference and the World Peace Foundation meeting, invited representatives from each sector. The organizational norm of tripartite input to any discussion of conflict diamonds quickly diffused. These meetings and the continued verbal commitment to the presence of NGOs and civil society as important to solution building ("talking the talk") had to be followed up by meaningful action, supporting similar discussions by Risse et al. (1999) on human rights norm diffusion.

In fact, the tripartite framework extended into hallways and developed into genuine exchanges among these disparate actors, rather than mere window-dressing. This suggests that states internalized norms about the value and importance of non-state actors. In fact, states relied heavily on the NGOs, not only for technical expertise but also as intermediaries among states in the KP, brokering disagreements that could not be resolved by states. This supports similar findings in the NGO literature.

NGO legitimization of the KP was particularly important because the industry and some states were subject to severe criticism for their unwillingness or inability to deal with the problem of conflict diamonds. Moreover, NGO legitimization was important since the KP did not have any other legal authority or standing, especially before it was endorsed by the UN. After the UN's endorsement this was perhaps less important, but by then the UN had "established" the tripartite nature of the KP

as a crucial and exemplary feature of the decision-making stage. In addition, the KP also was not based on universal state representation and could have come to be seen as an exclusive club of self-interested actors.⁸ These “illegitimate” aspects of early KP negotiations made it even more important that it received other forms of legitimacy. NGOs offered it. According to world polity theory, NGOs are highly legitimated because they embody highly legitimated world-cultural principles (Boli and Thomas 1999). NGOs have legitimacy because they promote the rights and welfare of the poor, the oppressed, the victims of violence and for their selfless commitment to work on behalf of others in need. The role of NGOs as legitimators stems from these global cultural principles and can serve as highly legitimating forces for any process in which they are engaged. Similarly, NGOs’ authority to play the role of moral guardians, keeping states and TNCs honest, derives from those global scripts. Conflict diamonds NGOs represented the war victims, the refugees, and the societies that were harmed, impoverished, and exploited by the diamond trade. Neither states nor the TNCs could legitimately claim that they represented and worked on behalf of these interests, though some states did have similar intentions (e.g., Canada). However, there were also legitimacy deficits among NGOs: they were all Northern based (though PAC is part of a consortium made up mostly of African NGOs) and representation at the KP was largely by Northern representatives.

Tripartite engagement can also be understood in terms of theories of global political processes. Many scholars stress that global governance, characterized and structured by growing and dense networks, are fluid and not controlled by central institutions (e.g., della Porta et al. 1999; Florini 2000; Guidry et al. 2000; Brown et al. 2000; Smith et al. 1997). This global political organizational openness or fluidity allows for and encourages participation in various fora, including the UN, NGO coalitions, multilateral governmental negotiations, and transnational corporate responses. It is precisely the lack of a rigid, hierarchical, centralized structure that opens up the opportunity for organizational innovations like the independent tripartite process that emerged in the KP.

Moreover, I argue that the lack of formal organization and institutionalized procedures in the KP made tripartite innovation a more viable option. KP meetings took place without official rules of participation or procedural guidelines. The first meeting was attended by states that had experience with civil society organizations; this was another key factor behind the success of the tripartite model in the early days of decision-making. As participation broadened, the KP’s open and fluid *modus operandi* persisted: anyone could raise a hand and speak out, regardless

8 While initially, the KP was open to all states interested in participating, some were later prohibited from joining because they were unable to meet minimal criteria established during the implementation stage. The process of joining the KP became more difficult in mid-2003 and 2004 as countries had to show that they were fulfilling all the minimal standards (though many of the members still had shortcomings in their own implementation systems).

of considerations of power or resources. States like Britain and Canada, which were accustomed to NGO input on domestic issues as well as other international campaigns, exhorted more skeptical states to accept the tripartite structure. While expanding participation brought in states that did not appreciate the NGO presence, with every meeting their participation became more routine. Precedent and practice, rather than formal or rationalized procedures, guided much of the decision-making process, and this benefited NGOs and the industry. The NGOs and the industry became known as serious and knowledgeable professionals, eventually making their exclusion unthinkable – particularly after the UN endorsed the KP negotiations and their tripartite nature. Certain states and the NGOs themselves “socialized” other states into acceptance of tripartite decision-making. The limited number and highly professional participation of the NGOs was essential. The KP shows that the tripartite model took hold without formalized procedures and, perhaps more surprisingly theoretically, that it continued without formalized procedures, a topic I explore further in the implementation stage.

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Chapter 4

The Kimberley Process Certification Scheme: A Voluntary Agreement, Not a Treaty

Introduction

The Kimberley Process Certification Scheme (KPCS) went into effect in January 2003.¹ It seeks to ensure that no conflict diamonds are traded by certifying all legitimate rough diamonds traded among KPCS member countries. While the KPCS is voluntary, it in essence became compulsory for any state seeking to trade in diamonds because the countries in the KPCS agreed to trade only with other KPCS members. Initially, 37 states plus the European Commission (EC) endorsed this global certification procedure, this number grew to 74 member states plus the EC in 2009.² The KPCS requires each state to implement national legislation regulating the trade of rough diamonds in accordance with the minimal standards set by the KPCS. Practically, this means that each KP country must devise a national chain of custody, export and import laws, and rough diamond certificates.

While only states implement the KPCS, the Kimberley Process is unique in that it formally incorporates non-state actors in the decision-making and implementation aspects of the agreement. The industry is represented via the WDC and the two NGOs that have consistently represented civil society at the KP are Global Witness and PAC. While KP member countries are designated as “participants”, civil society and industry representatives have “observer” status.

In this brief chapter I describe the structure and workings of the KPCS and the Kimberley Process (KP). I discuss how the Kimberley Certificates work in practical terms and how the KP is organized at the international level. The KPCS

1 The KPCS refers to the certification agreement, while the KP refers to the organizational process supporting the agreement.

2 KP Participants as of October 2009: Angola, Armenia, Australia, Bangladesh, Belarus, Botswana, Brazil, Canada, Central African Republic, People's Republic of China, Democratic Republic of Congo, Côte d'Ivoire (currently under UN sanctions), Croatia, European Community, Ghana, Guinea, Guyana, India, Indonesia, Israel, Japan, Republic of Korea, Democratic Republic of Lao, Lebanon, Lesotho, Liberia, Malaysia, Mauritius, Mexico, Namibia, New Zealand, Norway, Republic of Congo, Russian Federation, Sierra Leone, Singapore, South Africa, Sri Lanka, Switzerland, Tanzania, Thailand, Togo, Turkey, Ukraine, United Arab Emirates, United States of America, Venezuela (currently under self-imposed export ban), Vietnam, Zimbabwe.

is a voluntary agreement, not a treaty. I explain why it took this form, showing the strength of the KP as a regulatory regime despite the apparent weakness of its legal form.

After the KPCS officially went into effect in January 2003, the KP continued to operate without a central secretariat, budget, or staff. In essence the KP remained weakly institutionalized throughout the implementation stage. I explain here and in the next chapter why this is the case. Moreover, this chapter explains how tripartite decision-making transitioned into tripartite implementation. Some important changes occurred when the KPCS went into effect. NGOs and the industry were no longer equal participants; they became “observers” while only states retained the status of “participants”. However, the observers’ input and importance did not in fact decline. Implementation proceeded in tripartite fashion, with tripartite collaboration in KP working groups and a consensus clause that, in effect, gave the industry and NGOs “veto power” over states.

The KPCS

The KPCS tracks rough diamonds from the mine through the export channels of one country and the import procedures of another until the diamonds are cut and polished. For producing countries, a chain of custody records each diamond’s journey from the mine to the office where a Kimberley Certificate is issued. KPCS member countries decide how to implement such chains of custody; there are no templates countries must follow but they must ensure the effectiveness of the certification process. The KPCS requires that diamonds be handled in tamper proof containers, but it is up to the national authorities to decide what precisely “tamper proof” means. Moreover, since KPCS certificates are issued by states, they vary considerably. However, basic minimum criteria must be met. For instance, the certificate must be difficult to forge and must contain the following information: date of issuance, date of expiry, name of issuing authority, identification of exporter and importer, carat weight, value in US dollars, number of parcels in shipment, harmonized system codes, and validation by the exporting authorities. Since every country issues its own KP certificates, customs officials around the world must be able to assess more than fifty types of certificates.

The KPCS’ Structure and Organization

KP meetings are held bi-annually, with an intersessional meeting around June of and plenary meetings around November each year. Meetings are hosted by the annually rotating chair of the KP. Table 4.1 summarizes the main KP meetings since negotiations began in May 2000.

Table 4.1 Major Kimberley Process meetings, by date and place

Date	Place
May 2000	Kimberley, South Africa
September 2000	Pretoria, South Africa
October 2000	London, Great Britain
February 2001	Windhoek, Namibia
July 2001	Moscow, Russia
April 2001	Brussels, Belgium
September 2001	Twickenham, Great Britain
October 2001	Luanda, Angola
November 2001	Gaborone, Botswana
March 2002	Ottawa, Canada
November 2002	Interlaken, Switzerland
April 2003	Johannesburg, South Africa
October 2003	Sun City, South Africa
October 2004	Gatineau, Canada
November 2005	Moscow, Russia
November 2006	Gaborone, Botswana
November 2007	Brussels, Belgium
November 2008	New Delhi, India
November 2009	Swakopmund, Namibia

Source: Kimberley Process website.

Lacking a central secretariat, staff, and fixed budget, the KP is led by a yearly rotating chair, which usually swaps between key producer and key trading states.³ The chair is a voluntary position selected by the plenary, which includes all member countries. Substantial costs are associated with chairing the KP, however, and obtaining a suitable volunteer every year has already proven difficult.

This low degree of formal organization is not typical of regulatory regimes. There are several factors which account for these institutional characteristics. First, since the KP operates through national legislation and implementation, large parts of the financial and organizational burden fall on national governments. For instance, each country prints its own Kimberley Certificates and regular bilateral and multilateral trade procedures are used to communicate about rough diamond shipments. Second, during the decision-making stage, to set up the system, proactive states, most notably South Africa, as well as the industry and NGOs, often stepped forward to volunteer their resources. This practice set a precedent for developments in the implementation stage. South Africa served as the initial chair,

3 The following states have served as annual KP chairs from 2003 to 2010: South Africa, Canada, Russia, Botswana, EC, India, Namibia, and Israel.

allowing the KP group to sidestep discussion of a secretariat and permanent office. The pace by which the KP moved to implementation was so quick that several “details” were left on the sidelines and the *modus operandi* of the decision-making stage, which frequently developed haphazardly, continued into the implementation phase. During the decision-making stage, a system of voluntarism was established that matched the voluntary participation component of the KP. The most vested, interested, and committed actors were contributing their resources to make the KP happen. Note, though, that some of the states that later joined the KP had much lower levels of commitment. Overall, the resources used to bring about the KPCS were very unequal and continued to be so during implementation:

People already are putting money in Kimberley Process. They just don't want to channel it into a central place. But everybody's spending that money already and that's the point that we're [NGOs] trying to make that it's better to have a coordinated location, a secretariat. The president can rotate every year still. The chair of the Kimberley Process can rotate but the monies that they're spending now could be a part of the pot right now. What is also true is that not everyone is spending. It's always the same people spending and that's where probably the resistance comes from is that now suddenly everybody will have to put something. Because if you don't put up your hand to volunteer on the review visit to be part of the team you are not spending any dollars, you know (Dorothee Ngolo Gizenga, Partnership Africa Canada, interview, July 6, 2006).

Not even the states that were bearing a disproportionate share of the costs, like South Africa, Canada, the United States, the EC, and Russia, pushed for a pooled budget or secretariat. After reaching the Interlaken agreement in November 2002, and setting the ambitious goal of January 2003, as a deadline for the launch of the certification, these countries wanted to see an agreement in place. Whatever compromises had to be made were made and some issues were postponed for later discussion. Pushing on the issues of a budget and headquarters would most certainly have led to delays in adopting the KPCS.

Thus, the KP is financed by the volunteers, who chair the KP and those who serve on working groups, further discussed below. In 2006, Canada, for instance, has assigned six full-time staff members to the KP. Three of them deal with domestic matters, i.e., issuing KP certificates and controlling Canada's import and export side of the KP, while three deal with international matters, such as chairing the working group on statistics. During the year when Canada served as Chair (2004), the expenses and time commitment were much higher. Tim Martin, Canada's KP chairman stated, “The responsibilities of the Chair are not without cost in terms of financial and human resources. In the case of Canada, the annual cost was equivalent to approximately CDN \$320,000 plus three professional staff. Moreover, the need to maintain reliable and accessible records combines with an ever growing body of documentation and data” (Martin, Letter on KP Three Year Review, 2006).

Thus, implementation began without any serious debate or effort regarding a joint budget or secretariat, for three reasons. First, the precedent of voluntarism during decision-making muted serious debate about a secretariat. Second, since the KPCS was to be implemented at the national level, many KP participants felt that a better funded and formalized KP was not necessary. Third, the rapid move towards implementation left details off the table and required compromises, including the lack of a secretariat and common budget.

What developed instead was a decentralized working group system. Many administrative functions are carried out by five permanent and several ad-hoc working groups. There are permanent working groups on statistics, participation, rules and procedures, technical, and the monitoring working group.⁴ These working groups consist of about ten representatives, selected from geographically diverse countries and from NGOs and the industry. How NGOs, the industry, and states work together is further discussed below. All working group participants volunteer and serve for an unspecified time. Each working group is chaired by a participant (i.e., state representative) except for the technical working group, which is chaired by the industry. In the KP, most of the decision-making occurs via these working groups and this gives non-state actors quite extensive influence. While the working group structure afforded NGOs with opportunities for pushing more stringent regulations forward and providing a healthy dose of “checks and balances”, most recently this structure has come under criticism for hampering swift action.

Launching the KPCS: An Agreement, Not a Treaty

In wording and style, the KPCS closely resembles a UN resolution document, but the KPCS remains a voluntary agreement and does not possess the legal standing of international law. “[A]t face value it appears rather weak. The KPCS is not a treaty, it is not legally binding as a formal international treaty might be, and no government signed any document” (Smillie 2005: 3). Unlike a treaty, which obliges signatory states to abide by the provisions of the treaty, the KPCS is merely an agreement without legal basis or authority. The KP did not develop into a legally binding agreement or treaty for several reasons: “Some felt it inappropriate given the way in which the industry had developed along national lines (with some countries operating only state-controlled facilities, some only private ventures and a few mixing the two). Others were concerned that parliamentary ratification of a treaty would take years to achieve, delaying implementation. Still others feared the intrusiveness that a treaty might bring by way of monitoring” (Wright 2004: 704).

At first sight this may seem like a much weaker system than an international, legally binding treaty. However, the KPCS is actually quite strong and effective as an agreement, for several reasons. First, the minimal KPCS standards that apply

4 The participation committee was only created at Johannesburg 2003 intersessional.

to national legislation are actually rather extensive. Second, while abiding by the agreement is voluntary, in effect it has become compulsory for any state that wishes to trade in rough diamonds. High levels of participation in the KP left outsiders without trading partners since countries that join agree to trade only with other KP members. The minimal standards “are – de facto – compulsory for all participants, something that is not true of many ratified international treaties ... So while the KPCS is not a legally binding international treaty, each participating country has made its provisions legally binding within its own borders. Where an international treaty might have been difficult to enforce, laws in each participating country are much less so” (Smillie 2005: 4). Moreover, while in many international treaties non-compliant countries have to be dragged along, in the KP there is the real threat of expulsion attached to non-compliance. “This took the KPCS further than many other conventional treaties. These may have reporting and complaints systems, but compliance issues take months, if not years to work their way through the system, and there are rarely provisions for penalties or expulsion” (Smillie 2005: 4).⁵

It is also noteworthy that not all countries are signatories since not everyone is engaged in the diamond trade. Tim Martin, former KP chair explains:

I think it's also an interesting and very efficient structure that the Kimberley Process is composed of states that participate in the diamond industry. It's not universal. Countries that don't participate in the diamond industry are not participants, at the same time it benefits from universal endorsement by the international community through an annual resolution in the General Assembly. So, on the one hand it has an efficient, inclusive dynamic but selective structure and composition, it also enjoys universal, systematic universal endorsement (Tim Martin, interview, May 6, 2005).

However, these optimistic assessments of the KP would only be voiced after certain crucial events that unfolded during implementation. Initially, instead of praise, concerns were expressed about weaknesses in the KP agreement and suspicions arose about how effective the certification process would be. These concerns continued to be raised long after the KPCS was in place.

Too Compromised? NGOs Concerns About the KPCS

NGOs officially endorsed the KPCS but had major reservations concerning its effectiveness due to the lack of provisions for monitoring. Without credible monitoring and the collection of reliable statistics, there would be no opportunity

5 Treaties vary considerably in their effectiveness in dealing with non-compliant participants. For a review on the implementation and effectiveness of environmental treaties and agreements see Victor et al. (1998); on the landmine treaty, see Cameron et al. (1998); for a general treatment on compliance see Chayes and Chayes (1995).

to detect non-compliance, making the KP, in effect, a farce. Initially any state could join the KP; the agreement made no provision about screening to determine whether or not a country was taking appropriate and effective measures to control its diamond trade. No minimum criteria were set for states to join the KP.

Despite major reservations, NGOs decided to endorse the process, “the question at Interlaken was whether to accept a weak agreement and to work later to strengthen it from the inside, or to leave the table entirely and for good. Given the obvious inability of the process to move beyond what was agreed at Interlaken, the latter would probably have destroyed the entire process, culminating in the consumer war that the industry feared, but which NGOs knew would hurt hundreds of thousands of innocent diamond miners and polishers in many developing countries” (Smillie 2005: 4). The risks and costs were too high for NGOs to walk away. However, they made their support and continued participation conditional: “Acceptance of the initial weak agreement by NGOs was reluctant and (privately) conditional on progress in the area of monitoring and statistics; without this they would probably have left the process” (Smillie 2005: 7). Indeed, a few months later, NGOs got a monitoring system and a statistics database. The credibility of the KP could have been at risk without moving forward on effective and credible implementation.

NGOs and Industry are Relegated to Observer Status

The tripartite structure of the KP was formally acknowledged and institutionalized in the KPCS agreement by confirming a continuing role for NGOs and industry in the process. However, while NGOs and industry had so far enjoyed the same standing as states, with the launch of the KPCS, industry and NGOs were relegated to “observers” while only states were considered “participants”. This distinction reflected the fact that only states could implement the KP in domestic legislation. Observer status confers on nongovernmental actors the role of monitors and experts: “The term Observers refers to Industry and Civil Society groups that play an active role in monitoring the effectiveness of the certification scheme and who provide technical and administrative expertise to the Secretariat, Working Groups, Applicants and Participants” (Kimberley Process website, *FAQ*, n.d.).

Relegation to observer status initially caused some concern by the newly designated “observers” that their access or influence would diminish:

Once the KP came on stream in January 2003 there was now a new, I mean up to that point everybody who went to the meetings was sort of there as an independent party. I mean, you may represent a government or an NGO or whatever, but nobody had status that was different from anybody else. Then it became more formal, participants and observers and we [NGOs] were a little bit worried that, you know, we might be sort of disenfranchised in a way but we haven't been. I mean we have not spoken any less. We are not any less

recognized. We put up our hands and get recognized every time we do ... certainly have a lot more to say and say it than most participants. You know the most active ones at the meetings are the ones who are on the committees and so that always includes Russia, the EC, the United States. China's quite active. Botswana, South Africa and then there are others that are sort of less active. Then there's some that never say a thing. They go but they don't speak. But we certainly always speak. No, so being an observer in this Kimberley Process hasn't been a, hasn't had any drawbacks at all (Ian Smillie, Partnership Africa Canada, interview, July 5, 2006).

Thus, despite concerns, in the long run the observer-participant distinction did not weaken the industry and NGOs *vis-à-vis* states as it did not change their level of input, access, or overall influence. NGOs and the industry still had, and continue to have, full access to meetings and documents. For example, observers were given the same membership access to the private KP website as participants, thus giving them access to trade statistics, full country reviews of KPCS implementation, and all other material that is not released to the public. Furthermore NGOs and industry were given access to all meetings and the same "air time" as participants. The terminology of "observers" masks the continued close involvement of NGOs and industry during implementation of the KPCS. Actually, many states were participating with less commitment in terms of time and resources than NGOs and the industry.

Tripartite Working Groups, Tripartite Consensus

I discussed earlier the importance of the working groups in the KP: they are where most work gets done, in the absence of a central secretariat. NGOs and the industry serve on all but one of the working groups, the Participation Committee. Within the working groups, it is evident that their structure, interaction, and content is genuinely tripartite: implementation tasks are conducted in a tripartite manner, showing the extent to which tripartism has become incorporated and solidified in the KP. Observers influence the agenda of the working groups and have full input on all matters. NGOs are among the more active members on many working groups compared with most KP participants.

For some working groups the time commitment is substantial. While for observers, especially NGOs, serving on working groups allows them to give input and gain insight into what is occurring in the process, for many participants it is a responsibility to be avoided. This may be one of the reasons that participants were willing to allow observers into the working groups: their expertise and energy

ease the workload. However, the access observers were granted far exceeds nongovernmental actors' roles in treaties or other international fora.⁶

Smillie also credits the working groups with building trust and solidarity within the KP. This was facilitated through frequent informal meetings that translated into more rapid decision-making than could have been achieved in the yearly plenary sessions, where 150 representatives met for three days. "As well as dealing with the work of the KPCS and laying the groundwork for plenary consensus-based decisions, the working groups help to develop solidarity throughout the process ... the relative informality of this approach has enabled the KP to develop much more rapidly and effectively than it might have if decision-making were confined to once- or twice-yearly formal meetings. It is no exaggeration to say that the KP has sometimes accomplished in a single teleconference what would have taken a more formal international organisation several years of negotiation to achieve" (Smillie 2005: 6). In my interviews, similar views were voiced by industry, state, and NGO representatives active in KP working groups.

The KP was also designed as a consensus organization: positions must be supported by all participants before any action can be taken. On various occasions, consensus slowed down the process or resulted in outcomes based on the "least common denominator". However, stalemate has been circumvented by the working group system. Essentially, decisions are made in the working groups and plenary sessions only rubber-stamp the recommendations. Moreover,

Despite the early misgivings of many participants, the provision for consensus decision-making has proven in many ways to be a strength. In the early days of the agreement, a voting arrangement would have allowed participants to 'gang up' on members that held contrary and often very strong views. There was a real possibility that an important participant might walk away from the table, which could have proven very destructive. While some decisions may represent the lowest common denominator, there are at least, as a result, few major ructions. Many of the players have been involved in the process from the beginning, and this has helped to leaven the confusion and mistrust that newcomers sometimes bring to the table. Reaching consensus has become easier with time (Smillie 2005: 5).

6 For instance, NGO access in other trade-related agreements, most notably the WTO and NAFTA, has been extremely limited. On the other hand, NGOs' role in implementing the Convention on International Trade in Endangered Species (CITES) has been extensive (see Reeve 2002). Victor et al. (1998) offer a mixed assessment of NGO involvement in the implementation of environmental treaties and agreements. Most frequently, scholars observe NGOs helping to implement international agreements at the domestic levels (see Gaer 2003 on human rights treaties, Cameron et al. 1998 on the Mine Ban Treaty). Much less attention is given to the role of NGOs in the implementation stage at the global level.

An interesting connection arose between consensus-based decision-making and the tripartite structure. While consensus was conceived as a way to give sovereign states the possibility of vetoing unacceptable measures, it essentially gave the same power to observers. This selection from my interview with a former KP chairman and a representative from Foreign Affairs Canada illustrates the practical definition of consensus:

Omar: And they [NGOs] are also part of the decision-making process. The decisions that have been taken by the plenary, decisions by different working groups are always decisions reached through consensus including reviews, including, taking into account the views of civil society ...

Bieri: And of that consensus, NGOs are part of?

Omar: Exactly.

Martin: Their views are taken into account and they express them (Tim Martin and Abdul Omar, interview, May 6, 2005).

That indeed seems to be the case. Smillie recalls an important KP meeting,

There was a huge debate over this three-year review last summer in Moscow, I was speaking for the NGOs and I was saying we don't agree. We do not agree with the way this is going and I remember saying very clearly, I said this is a consensus based organization. You may not include observers in your definition of consensus but I just want you to know that if you do, there is no consensus here. And in the end they had to work out a compromise. They did. They did work out a compromise (Ian Smillie, interview, July 5, 2006).

Officially, only participants were included in the consensus mandate, but "serious comments from [the Observer] side are taken as much into consideration where consensus is concerned as those of anyone else. This may be without precedent in organizations with the effective power to exclude a country from the trade in an important commodity. It is one of the key factors allowing the KP to make so much progress so fast" (Smillie 2005: 5). Thus, while initially intended to protect sovereign states from being overruled by a majority, consensus became defined as a tripartite characteristic, with NGOs and the industry receiving *de facto* veto power as well.

However, most recently the consensus principle and the working group structure have come under criticism from NGOs for stifling swift and decisive actions by the KP against non-compliant countries. These concerns are detailed in Chapter 6.

Replicating the KPCS

Some governmental and nongovernmental actors have sought to apply KPCS-like certification to other commodities. But, “The Kimberley Process was designed in part to protect a specific part of the trade pipeline of a single product. It is not clear that it can easily fit the requirements of other trade pipelines also under attack through illegal exploitation. There are undoubtedly generic elements that should be copied, but care will have to be exercised in making any snap judgments that the Kimberley Process has delivered a ‘one-size-fits-all’ solution. It probably has not done so” (Wright 2004: 706). Indeed, whether a KPCS-style global voluntary certification mechanism with tripartite input is a viable solution for other conflict fueling natural resources will depend on several factors.

First, the adoption of a certification scheme is more likely to succeed in industries that are more centralized in structure. For instance, the complexity of supply chains of coltan – a key ingredient for cell phones and laptops, which is linked to violence in the DRC – makes its certification more complex (Molango 2008). In addition, most other commodity industries, including the coltan, oil, and timber trades, are much less centralized than the diamond business. Timber, for example, is characterized by a more dispersed market and includes many smaller industry actors.⁷ Bringing each industry actor individually aboard to support a certification scheme and keeping them in line for the implementation is a process that requires at least some degree of centralization (Smillie 2005).

Second, the reputational risk of some industry players with strong brand name recognition facilitates certification. Brand name recognition like Nike, Nestle, Shell, or Coca Cola make certain companies more vulnerable to attack and therefore more willing to negotiate and participate in certification efforts. Similarly, a particular image of a product, which often is carefully constructed by a dominant industry player, also increases the chances for targeting that product for any regulative attempts. This was the case with diamonds, even though De Beers did not have direct brand name recognition with the consumer.

Third, the certification of luxury products, like diamonds or fur, is more likely to occur than the regulation of more “essential” products like oil, coltan, and other ores. This distinction between essential and optional products affects the political willingness of states to regulate those industries. Related, awareness raising campaigns on luxury products are more likely to be successful in changing

7 Still, the timber trade has been dramatically affected by global certification systems. There are several timber certifications available, with the European Union’s Forest Law Enforcement Governance and Trade Initiative (FLEGT) and the Forest Stewardship Council (FSC) certifications as the most prominent ones. FSC, similarly to the KP, is voluntary, market based, with a chain of custody tracking the wood from forest to consumer. But unlike the KP, who bases certification on national legislation, the FSC is nongovernmental and certifies private entities, including manufactures, brokers, sawmills, and forest managers.

consumer behavior. Points in case, the campaigns on “blood cell phones” or “blood oil” have not resonated with consumers in notable ways.

Fourth, certification is only feasible if it does not pose threats to the livelihood of local populations dependent upon the trade. So, for instance, the cocoa trade is crucial to millions of Ivorians, yet it is also a commodity that has funded weapons purchases for the Ivorian military as well as the Forces Nouvelles. In such instances, sanctions like travel bans or asset freezes are more desirable than a commodity ban (Alley 2007). Similarly, any certification efforts regarding coltan would need to ensure that local miners can continue to benefit, especially since coltan miners in the DRC tend to earn better compared to miners of other resources (Molango 2008). Certification then must guarantee that local populations gain benefits from such regulation and do not themselves become the victims.

Rough diamonds and the diamond trade fulfill quite well those criteria. The circumstances which allowed for the adoption of certification in the diamond industry are rather unique. Particularly, the uniqueness of a centralized industry structure, under De Beers’ monopoly, trading a luxury commodity facilitated the creation of the KP. Nonetheless there are important lessons to be learned. For instance, the KPCS shows that using a voluntary approach can yield binding criteria for large segments of the market. Also, tripartite collaborations and particular monitoring mechanisms offer valuable insights for efforts regarding other natural resources or products as well. Chapters 5 and 6 will further elaborate on those lessons.

Conclusions

The KPCS shows that an apparently weak voluntary political agreement can exhibit significant strengths in terms of governmental participation and implementation. Moreover, the fact that it was only a political agreement rather than a treaty allowed for the inclusion of nongovernmental actors. KP member states organize their diamond industries in accordance with the rules and guidelines established in the KP. The KP thereby diffuses global norms about the operations of the diamond trade and conflict diamonds while it also serves as a model of how to appropriately arrive at and implement global rules and guidelines. In this tripartite model, NGOs influence states significantly in terms of policy adoption and implementation. The KP shows that the role of NGOs can go beyond advice and exhortation to deep involvement in actual rule making. NGOs were full partners, their role was institutionalized in the KP agreement, and they were able to exercise considerable influence in the day-to-day operations of the KP. These findings are similar to those of other work on the role of NGOs in the implementation of human rights treaties (Gaer 2003) and in the tripartite World Commission on Dams (see Khagram 2004). The fact that nongovernmental organizations were formally relegated to a lower status than that of states did not diminish their strength. NGO and industry standing as “observers”, giving them an advisory, monitoring, and expert function,

suggests that the role of nongovernmental actors had been accepted enough to be formalized.

That the KP lacked a central secretariat and that most work was organized in working groups, aided the continued input of NGOs and the industry. The case study shows that working groups facilitated greater NGO influence, helped create trust and solidarity among a diverse set of actors, and firmly established the tripartite structure as the basis for day-to-day interactions. However, the same key structures and characteristics which initially democratized the KP – volunteerism, consensus based decision-making, and the working group structure – most recently have been associated with inefficiencies within the KP.

This chapter shows that even political processes that have been fundamentally associated with nation-states can be redefined by nongovernmental actors. Consensus and veto power, which were intended to preserve nation-states' sovereignty rights in the international arena, can help strengthen the role of NGOs. Evidence from the KP shows that issues of legitimacy are crucial in explaining the willingness of states to have nongovernmental actors so closely engaged in the KPCS. NGOs and industry are valued as experts on the working groups. States have learned that keeping NGOs formally in the process lends the KPCS greater moral standing and legitimacy. The legitimacy of the KPCS is particularly important since the agreement lacks legal authority. Even reluctant states understand that the KP's reputation as an organization that effectively curbs the trade in conflict diamonds can only continue to reassure the public and consumers if NGOs are endorsing it. In the case of the KPCS, such endorsement does not simply mean a stamp of approval by sporadic NGO involvement and distant watchdogging, but direct NGO participation in implementation itself. Their input is valued and tolerated because NGOs have shown that they are committed to giving their time and resources, their expertise, and their moral reputations to this system.

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Chapter 5

Implementation: Translating Words into Action

From Decision-Making to Implementation

The agenda-setting chapter identified several key factors that helped make the conflict diamonds issue a global concern. UN sanctions directed at rebel diamonds from Angola provided a fertile environment for the Global Witness report, “A Rough Trade” (1998). The use of diamonds to fund the civil war in Sierra Leone led to the involvement of states, leaders in governmental agencies, industry organizations, and NGOs. The nature of the industry also proved crucial: with one dominant company, De Beers, and a single dominant trading center, Antwerp, central targets for the campaign were obvious. Agenda setters included not only NGOs but also key individuals and institutions within states, international organizations, and the industry. I concluded that the early involvement of states and industry leaders cannot easily be explained in terms of profit motives or strategic geopolitical considerations.

In terms of decision-making, NGOs and the industry were crucial participants, not just states. Under the leadership of South Africa, with De Beers probably pushing behind the scenes, the KP quickly emerged as the primary forum for dealing with conflict diamonds. Its procedures, meetings, and decisions involved a genuinely tripartite effort that all parties came to appreciate. The NGO public awareness campaign, which peaked well after the KP was underway, helped keep the process moving. NGOs and the industry found themselves in an unexpected alliance, jointly pressuring states to reach definitive agreements. While decision-making was delayed repeatedly, an agreement was reached in record time.

The Kimberley Process Certification Scheme (KPCS) took effect on January 1, 2003. A voluntary agreement, it stipulates that adhering states implement national legislation certifying legitimate diamonds based on minimum criteria specified in the KPCS. Member countries agree to trade rough diamonds only with other KPCS members. Thirty-seven states plus the European Commission initially signed on to the KPCS, including all the major diamond-producing and trading nations. This in essence made it compulsory for other states to join as well. The KPCS tracks diamonds from the mine to the diamond cutter through a documented chain of custody. The World Diamond Council, the diamond industry organization created in 2000 to deal with the conflict diamonds issue, created a supplementary self-regulatory system tracking diamonds from the finishing process to the consumer.

Diamond traders must declare on every invoice that the diamonds were purchased from a legitimate source and are conflict-free.

Introduction

The standards and procedures formulated in the decision-making stage are implemented in this stage. Many studies do not look at implementation processes, ending their analyses once an agreement is reached. However, even highly consensual agreements face many implementation obstacles, and careful assessment of institutional and practical obstacles to compliance, and of support mechanisms that encourage compliance, is of great importance. In this chapter, I explore the roles that states, NGOs, and TNCs play in the implementation process. I find that industry and NGO participation was crucial in the effective implementation of the KP agreement, but not in the way that watchdog functions are usually understood.

Some scholars have looked at the role of NGOs in the implementation of treaties or international agreements. Most frequently, though, this research studies NGOs helping to implement international agreements domestically (Smith et al. 1997; Victor et al. 1998 on environmental treaties; Gaer 2003 on human rights). Much less attention is given to the implementation role of NGOs at the global level, and tripartite arrangements have been largely ignored. My analysis will pay close attention to tripartite matters and explore the role of NGOs in considerable detail.

Let me offer a prelude with a few key findings in this chapter. The KP shows that we cannot narrowly define the roles of the three sectors in this stage. Labeling states as enforcers, industry as adopters, and NGOs as monitors – the usual nomenclature in the literature – is simplistic and does not account for the range of activities that occur in a concerted effort. Instead, I see tripartism in all aspects of implementation work in the KP.

The chapter will show that most KP activities continued to be carried out in ad-hoc working groups and committees, as states were unwilling to establish headquarters or a KP budget. Furthermore, I argue that the ad hoc nature of implementation allowed for greater nongovernmental involvement. Structural organizational opportunities (in the form of the KP's limited official capacities) enhanced NGO involvement in implementation and rule making. State concerns about sovereignty, and state hesitation to become deeply involved in organizational matters, in essence gave the NGOs and industry an even greater role as policy makers and implementers. At the same time, the lack of a central secretariat or committed resources to a budget combined with the ad-hoc structure and consensus principles, posed serious obstacles to the effective implementation of the KP in more recent years.

The substantial material costs associated with staying outside the system give the KP the necessary material incentives to be effective. The expulsion of the

Republic of Congo was a milestone in the KP and is frequently cited as giving a major boost to the KPCS's credibility. But many states, including powerful ones, went to great lengths to meet the requirements spelled out in the KPCS, exceeding expectations and complying remarkably fully without the slightest suggestion of a threat of expulsion. In discussing the adoption and operations of the peer review visits, I show how important normative pressures were in implementing the KPCS. I therefore conclude that material incentives (the risk of expulsion from the diamond trade) serves as an effective last resort mechanism for non-compliant states, while normative incentives guide the system's effectiveness in areas like peer review visits, statistical reporting, annual meeting attendance, and so on.

During implementation, NGOs step in to increase compliance through shaming and monitoring (Keck and Sikkink 1998; Smith et al. 1997; della Porta et al. 1999; Gaer 2003; Smith 1999; Weiss and Gordenker 1996; Raustiala 1997). Evidence presented in this chapter provides a more nuanced understanding of these processes. NGO participation in the review visits also showed that NGOs adopted the role of monitors "from within", through their direct participation in the KP, as well as from outside the system, as vigilant watchdogs producing highly critical reports about the KP or particular member countries. Insider NGOs (Global Witness and PAC) developed personal relationships with state and industry representatives. In addition, they developed a reputation for expertise through their independent research reports, and a reputation for knowledgeable and reasonable participation within the KP. They also learned the ins and outs of technical details regarding the KPCS, trade, certification issues, etc.

Concerns about cooptation regarding NGOs' insider status in the KP – the question of their independence as monitors – proved unfounded. My study of the conflict diamonds case shows that these NGOs effectively carried out their watchdog function as both insiders and outsiders.

Moreover, I show that NGOs were involved in much more than monitoring; they had a hand in a host of aspects of implementation. NGO actions went well beyond the issues of transparency and monitoring, extending to matters of national implementation and even the expulsion of participants.

Continued UN Endorsements

The United Nations Security Council quickly endorsed the KPCS in Resolution 1459 (January 28, 2003). With its endorsement of the KPCS, "The United Nations has admitted that the Kimberley Process contributed significantly to the reduction in UNITA's funding. This, effectively, is an admission that the Process succeeded in doing in three years what the United Nations ... failed to achieve in a decade" (Bone 2003: 8). While this action did not transform the legal status of the agreement, it did lend the process legitimacy (Wright 2004). KP participants deliberately kept the process outside the UN but they also continued to seek legitimacy through UN endorsements. While the UN could not provide an efficient bureaucracy to deal

with conflict diamonds, what it could provide was a stamp of approval that no other international institution could match. “The Kimberley Process participants were always careful to seek regular endorsement of the negotiation and its progress and direction ... The fact that so much attention has been paid by the UN to the KPCS underlines the uniqueness and importance of the Kimberley scheme” (Wright 2004: 701). Thus, while avoiding the rigid bureaucratic structure of the UN, the KP benefited from the UN’s legitimacy and authority, which were especially necessary for an agreement that was based on voluntary participation.

Free-Trade Rules and the KPCS

Although the KPCS final agreement was reached in late 2002, some countries were still awaiting a “go-ahead” from the WTO. As early as the 2001 Luanda KP meeting, certain states (including Canada, Australia, and the United States) had expressed concerns that a global certification system would violate WTO rules. Since the KPCS was not a legally binding international agreement, in itself it was not a trade measure and therefore did not fall under WTO jurisdiction. However, the KPCS required member states to implement national legislation that could be subject to WTO trade rules. The debate on WTO conformity led to a workshop which numerous KP members (Australia, Canada, China, EC, Japan, Namibia, Russia, South Africa, Switzerland, and the US) attended in February 2002. The issue was whether or not the KPCS should seek a WTO waiver. Smillie (2005) summarizes the situation: “As agreement neared, Canada and a small number of other states felt that the KPCS should seek WTO endorsement, as the proposed system could be considered an infringement on trade. Switzerland and others argued that with all major diamond countries as participants, including the EC and all five permanent members of the Security Council, it would be better to ask for WTO forgiveness later in the event of any challenge, rather than to ask for permission in advance. If permission were denied, the entire KPCS would likely fall apart. In the event, however, Canada – joined by Australia, Brazil, Israel, Japan, Korea, Philippines, Sierra Leone, Thailand, the United Arab Emirates and the United States – went to the WTO to request a waiver” (3). Not surprisingly, the NGOs opposed requesting WTO approval because it would delay the progress of the KP.

On May 15, 2003, the WTO granted a waiver for the KPCS, muting concerns that rough diamond regulations would violate free trade rules. In its waiver, the WTO acknowledged the humanitarian needs that motivated the KPCS: “*Recognizing* that the trade in conflict diamonds is a matter of serious international concern ... *Recognizing* the extraordinary humanitarian nature of this issue and the devastating impact of conflicts fuelled by the trade in conflict diamonds on the peace, safety and security of people in affected countries and the systematic and gross human rights violations that have been perpetrated in such conflict” (WTO

2003). This marked the end of the debate about fundamental tensions between trade liberalization and conflict diamond regulation.

In the WTO debate we observe conflicting frames at work, one treating the KP primarily as a trade matter and the other treating it as a human security/rights matter. While the KP was initially created in a human rights frame, decision-making and implementation necessarily brought the trade frame to the fore. With the WTO waiver, however, this frame's contentious issue was settled and it could recede into the background.

Expanding Frames: Will Terrorism Do the Trick?

In April 2003, Global Witness published "A Few Dollars More: How Al Qaeda Moved Into the Diamond Trade", a 100-page report with more than 200 footnotes that reflected the thoroughness that had come to be expected of Global Witness. This was the first NGO publication linking terrorism and diamonds and the first NGO attempt to frame the conflict diamond issue in terms of terrorism. Previously, only US media reports had relied on this frame, which the industry took very seriously. The terrorism connection began with a *Washington Post* report by Douglas Farah in November 2001, which showed that al-Qaeda operatives were expanding diamond-buying operations from Tanzania and Kenya to Liberia and Sierra Leone. Thus, Global Witness's report was not exactly news; "However, what Global Witness is highlighting for the first time is the strategic nature of al Qaeda's decision to begin trading in these commodities" (Global Witness 2003: 8). The report accused the industry of shirking its responsibility by reacting slowly to the terrorism link, just as it had been slow to respond in the early years of the conflict diamonds campaign. "There is a tragic and unacceptable sense of history repeating itself on this issue. The diamond industry has not learnt the key lesson on conflict diamonds which is the failure to take full responsibility for the problems in its own industry sector. It continues to resolutely avoid responsibility for collective action, insisting that governments bear the sole responsibility ... The issue of the link between diamonds and terrorism is a major test of the claims the diamond industry has made that it has reformed and is serious about the need to protect society from the negative impacts of its trade" (Global Witness 2003: 10). That the early days of the conflict diamond campaign were used as a point of reference to make judgments about acceptable and unacceptable behavior is a sign that the campaign had matured.

Other NGOs viewed the terrorism link skeptically. "Global Witness used that to tackle the American government. We refused to use that because we think that means you make it a safety of Western people issue, and we wanted to talk about the safety of African people" (Judith Sargentini, Fatal Transactions, interview, July 18, 2005). Global Witness thought it could be a useful frame for compelling states and the industry to strengthen the KPCS, in particular by finally agreeing to the monitoring system that NGOs had called for all along. "There has been a

distinct lack of willingness within the Kimberley Process negotiations towards the designing and setting up of credible and independent monitoring mechanisms. The failure to tackle what many governments saw as the ‘potentially’ difficult subject of monitoring has led to a significant weakness in the system ... As this report will show, this weakness must be addressed in the next phase of the Kimberley Process if it is to maintain any credibility” (Global Witness 2003: 10).

While the issue of monitoring would continue to dominate the KP agenda and escalate in the upcoming plenary, the terrorism frame did not prove to be crucial. Neither did the NGO campaign continue to frame the conflict diamond issue in terms of terrorism. While it comes as no surprise that NGOs were not eager to get on the terrorism bandwagon, it is surprising that this frame did not lead states like the United States and Britain to push harder for effective monitoring, given that terrorism had become the number one priority on those states’ agendas.

KP discourse did undergo a substantial shift in this period, toward a concern for prevention rather than immediate human security. Peace agreements had been forged in several of the countries initially associated with conflict diamonds so the violence had greatly subsided. But effective implementation was nonetheless imperative: “In our view, however, the certification scheme is as relevant today as when the Kimberley Process was initiated in May 2000. The certification scheme makes a crucial contribution to the ongoing implementation of fragile peace agreements by denying resources to potential spoilers and strengthening the position of legitimate governments. As these peace agreements take root, the Kimberley Process will remain an important vehicle for preventing the outbreak of future conflicts. In short, the message is this: peace in conflict diamonds-affected countries is a work in progress. And this peace needs the continuing and the unflagging support of the Kimberley Process” (Tim Martin, KP Chair 2004, address WDC 2004). Similarly, NGOs stressed prevention: “The humanitarian imperative helped to drive the KPCS, but it is now felt to be as much about prevention as cure” (Smillie 2005: 7). In addition, the geographical scope of the conflict diamonds problem was expanding, both through the link to terrorism (stressed by the media) and as the result of a close look at KPCS implementation in South America. In Africa, attention was redirected towards escalating tensions in Côte d’Ivoire, the newest exporter of conflict diamonds. These new developments demonstrated anew the necessity of the KP: resolution of the civil wars in West Africa did not mean that the diamond trade was no longer problematic.

Is the KPCS Working?

The first threat to the KPCS’s credibility came just a few months after implementation began. In March 2003, rebels took control of the Central African Republic, a KP participant. NGOs called upon the KP chairman, Abbey Chikane, to temporarily suspend the Central African Republic. The KP had no precedent for such action and the KP agreement did not provide procedures for possible

member expulsion. The World Diamond Council (WDC) asked for a review of the country's membership. The WDC's CEO, Eli Izhakoff concluded in his letter to Abbey Chikane: "We therefore urge the chair, together with the participants and observers to review the participation of the CAR and try to find creative solutions to accommodate this unusual case of force majeure without prejudice to the fight against conflict diamonds" (*Jewelers Circular Keystone*, March 25, 2003). The KP decided to suspend the Central African Republic and order a review mission, which was accepted by the Central African Republic. This episode was the first instance in which the KP had to rely on its non-compliance clauses and show political will. "This started the engine, at least, for the existing KPCS monitoring provision, and showed that it had fuel" (Smillie 2005: 4).

On April 10, 2003, the Center for Strategic and International Studies in Washington, DC, held a conference on the KP, providing the first opportunity to assess KPCS implementation. State, NGO, and industry leaders participated. The meeting was organized by former US Special Ambassador on Conflict Diamonds, J.D. Bindenagel, who had taken a position at the Center. Challenges to implementation were discussed and processes of enabling KP participants to effectively implement global certification were also debated.

On April 15, the UN General Assembly passed a resolution calling for the broadest possible participation in the KP. The 14th KP plenary meeting in Johannesburg (April 28–30) marked the first official meeting since the adoption of the global certification scheme. Most of the 52 participants attended, as well as six non-participating states and representatives from the WDC and NGOs. Membership requirements and procedures for statistics were adopted and the review mission to the Central African Republic was officially announced. Global Witness and PAC continued to press for a system of independent monitoring of the national control mechanisms, having earlier submitted "background papers on monitoring provisions in other agreements" (Smillie 2005: 4). The Johannesburg plenary "did not have the time or inclination to grapple with the issue [independent monitoring], but some government delegations, notably the EC and South Africa, had begun to discuss the idea of a peer review system" (Smillie 2005: 4–5). Thus, proactive states again were in the forefront on an important issue. The debate about independent reviews did not subside until a breakthrough on monitoring was achieved in the following KP meeting in Sun City, South Africa, in October.

Apart from monitoring, a major concern at this time was the implementation of national legislation meeting the basic requirements of the KP. Many KPCS participants had not yet passed national legislation, though some had done so fairly quickly. In the United States, the "Clean Diamond Trade Act" was introduced in the House of Representatives on April 3 and passed by a unanimous vote on April 8, then passed unanimously in the Senate on April 10 and signed by President Bush on April 25, 2003. Canada had already passed "The Export and Import of Rough Diamonds Act" in December 2002, but subsequent requirements added to the KPCS, in particular the submission of statistical trade data, required a later

amendment. Legislation was only the start of the process, of course; development of a working certification system could take weeks if not months.

Implementation unfolded more slowly than planned; twice the KP postponed the deadline for compliance. The initial target date was January 1, 2003, but as the legislation and administrative system requirements expanded it was finally pushed back to May 1. Eighteen participant countries were expelled from the KPCS in July because they had missed the deadline (Wright 2004). Six of those expelled were readmitted shortly thereafter. For some countries, implementation was slow because of the normal complexities of the political process, but in others enforcement capability was a major problem, especially in countries with alluvial diamond deposits¹ like Sierra Leone and the DRC.

We've made huge progress. We have all of the 2005 data in from every single participant that has traded ... January 1, 2003 was the implementation of the Kimberley Process but then it was getting your ducks in line and so on. Up to then there was that leniency. Not knowing what to do, how to collect the data, where to put the data, who to send the data to. I mean there was so many unknowns and so it's ironing out all of those unknowns and making sure that every participant knows that after three months you are to send your quarterly data to the chair of the working group on statistics in this format at such and such a time. You know and so on and so forth. That's been, it's an educational learning curve, especially for countries, as I've already mentioned, that don't deal with data. They don't deal with data collection. They don't deal with national statistics at all. So for them to do this may be a bit of a challenge (Fitzgerald, Canadian Representative on the KP Statistics Committee, interview, July 7, 2006).

As discussed in the previous chapter, KPCS standards require states to put chains of custody in place that verify diamonds' origins. Countries must not only adopt implementing legislation, they also must develop KPCS certificates, set standards and procedures for tamper-proof containers, and train import and export authorities. Diamond producing countries must implement procedures for the chain of custody. All this takes time. By July, however, rough diamonds were being traded through the administrative channels required by the KPCS. "The first six months of implementation were very uneven, but by mid-2003 the system was working, perhaps better than imagined" (Smillie 2005: 1).

1 In alluvial diamond mining, diamonds are extracted using simple tools from riverbeds, as opposed to industrial mining, which extracts diamonds from underground kimberlite pipes.

Should We Stay or Should We Go? NGOs at the Sun City Plenary

The plenary meeting in Sun City, South Africa, in October 2004, dealt with several important matters. One was the choice of Canada to follow South Africa as chair of the KP. Most important was the adoption of a system of monitoring mechanisms. The NGOs had pleaded for such a system since negotiations on global certification began.

[M]any countries were very much against that, they were evoking all kinds of reasons, confidentiality, commercial confidentiality, and that they didn't like the idea of having watchdogs coming over and seeing what they are doing, it's good enough that there is an agreement and that we all abide to it. So there was a lot of resistance to that. And the point that the NGOs were making is that, how do you expect that countries that have always done business as usual, just because they say they are doing it on paper that it's gonna be done. We trust you but we'd like to confirm (Dorothee Ngolo Gizenga, interview, July 6, 2006).

Two countries in particular, Israel and Australia, were outspoken in their opposition to a regular monitoring system. "Israel saw the idea as the thin edge of an NGO wedge which, if accepted, would result in hordes of NGOs poring over the accounts of individual Israeli diamond dealers, bringing the entire industry to a standstill. This is obviously not what NGOs had in mind, but they did have to clarify what they meant by 'monitoring'" (Smillie 2005: 4). The plenary meeting itself could not have swayed Israel's opinion on the matter, but a series of events paved the way for the Sun City agreement. "Many of the breakthroughs in the KPCS were, and continue to be, worked out among antagonists behind closed doors before being brought to plenary discussion for endorsement. In this case, a complex sequence of events brought about significant (and fairly quick) change" (Smillie 2005: 4).

The first event was the review mission to the Central African Republic in March 2003, which showed that without monitoring mechanisms one bad apple could ruin the reputation of the entire process. The NGOs kept the pressure on and the EC and South Africa continued to discuss a peer review mechanism. Dorothee Ngolo Gizenga from Partnership Africa Canada explains how these events aided in bringing about monitoring:

At that time there was, in 2003, there was a coup in the Central African Republic and that raised a lot of questions about the legitimacy of the diamonds that were being exported from the Central African Republic. So an expert mission was organized to the Central African Republic. And despite all the fears that existed about what's going on there now after the coup, it showed that the system was in place, that it was a good system and it had a lot of weaknesses that were identified and it helped the country to actually address those weaknesses, and it became more of a capacity building issue than anything else. And that first visit,

and the government of Central African Republic speaking of it as something that has been very helpful, has actually opened up a bit the spirit of other countries to say that this is not so bad. Maybe we should look into it. And then a few countries came on board and spoke the language of the NGOs, where they were actually supportive of having monitoring visits (Dorothee Ngolo Gizenga, interview, July 6, 2006).

Besides the “positive” precedent of the Central African Republic, most of the work facilitating the adoption of a peer review mechanism in Sun City occurred “behind closed doors” in unofficial meetings and discussions orchestrated by the industry, the NGOs, and governments. The major breakthrough occurred a few days before the meeting in Sun City, when the WDC won over Israel, one of the biggest opponents to monitoring:

The diamond industry, the World Diamond Council, was holding out on this issue and there were several countries that were opposed to regular monitoring. One of them was Israel and Israel was one of the strongest. What we did was we worked, we brokered a deal, really it was between Partnership Africa Canada, World Diamond Council and the government of Israel. I think it was the World Diamond Council that actually did it. They were in Israel, they called and we had a three-way conversation about what we meant by monitoring. Israel was concerned that, you known, a swarm of NGOs were going to arrive and they were going to want to go through all the books of individual companies. We said no that’s not what we mean by monitoring ... When they began to understand that, they said okay we can agree to that so they did (Ian Smillie, interview, May 4, 2005).

Israel’s shift in position generated enough momentum to win over other countries like China, India, Russia, Australia, and a few others. At Sun City, negotiations developed rapidly:

But because things were evolving so fast and, you have to see the negotiations at the plenary, every five minutes there is somebody meeting behind some kind of door, buying somebody’s vote, influencing somebody’s decision, asking for support etc. Once you finish negotiating in one room you step out and somebody is calling you to negotiate somewhere else. So things kept evolving so fast that by the time the agreement was struck saying okay, and I remember it was Israel that said okay, we are going to try this. By the time they had agreed to this they had already gone negotiating, convincing other countries that they could convince, and they had convinced Russia (Dorothee Ngolo Gizenga, interview, May 4, 2005).

While the voluntary nature of review visits may appear as a “least common denominator” solution, the consensus requirement of the KP was important for

continued collaboration. "Consensus, even if grudging, avoids the feeling among participants that they have 'lost' something important" (Smillie 2005: 7). More recently, however, the consensus principle has become associated as an obstacle for effective action by the KP, which is further discussed in the next chapter.

The KP plenary at Sun City voted unanimously to implement the voluntary peer review mechanism, which had three aspects: annual reports on national implementation, voluntary review visits, and review missions. Reporting required participants to submit specified statistics on an annual basis. Review missions would be undertaken if there were "credible indications of significant non-compliance". Peer review visits, on the other hand, would be conducted on a voluntary basis. Voluntary peer review visits would be conducted by review teams consisting of five representatives: three from states, one from the industry, and one from the NGOs. Review teams would assess if the country was in compliance with KPCS minimal standards and write a report including recommendations for improvements. The reviewed state was to address the recommendations in its next annual report to the KP chair. While the review teams would be chaired by a participant state, the NGOs and the industry would have full input. Should they disagree with any aspects of the review report, they could write a letter of dissent. While so far dissenting views have not been submitted, this provision gives observers a powerful tool to ensure that review visits are realistic and frank. NGO participation in peer review visits is an example of their "inside monitoring", i.e., internal mechanisms that give them greater clout in the KPCS. Note the extraordinary role assumed by the NGOs here: KP participant states unanimously agreed that NGOs would participate in working groups and review visits whose recommendations would decide whether a country could continue to trade in rough diamonds or face expulsion from the KP.

The monitoring system was a major accomplishment for the NGOs. "[We] got the monitoring system. That was a huge breakthrough, a huge breakthrough and it happened. You know within a year of an absolute bottom line there can be no monitoring. Within one year of that position we moved a hundred miles in a year. I mean it was amazing" (Ian Smillie, interview, July 5, 2006). However, not all NGOs were eager to endorse the voluntary monitoring mechanism. "Initially some NGOs felt that it was not a victory at all that this is wishy-washy and it's not good enough" (Dorothee Ngolo Gizenga, phone interview, May 5, 2005). Global Witness and Partnership Africa Canada supported the voluntary system while other NGOs like Amnesty International and Fatal Transactions were skeptical.

And from there on there was even dissension among us, the NGOs, because while some of us felt it was a partial victory, others felt that anything partial is no good. And they were not happy us celebrating a partial victory. Today they see the value of it because the system is working. But at that time we were so unprepared that we were even divided among ourselves when the breakthrough happened (Dorothee Ngolo Gizenga, interview, July 6, 2006).

PAC and Global Witness also worried that a voluntary system would fail to uncover or act against non-compliance. However, they also knew that they could continue to press the KP for an adequate monitoring system. To the NGOs, compromising on a voluntary system did not mean the end of the debate, just as endorsing the Interlaken Agreement in 2002 did not prevent the NGOs from continuing to push for a strengthened agreement thereafter. When a large proportion of the members volunteered for peer review visits within the first few months, these worries subsided. Already at the Sun City meeting several countries, the DRC and the Republic of Congo among them, volunteered for review visits.

In conclusion, the NGOs played a crucial role in achieving the monitoring system by making it their top priority in the first year of the KP. But they had to rely on allies drawn from states and the industry and they were not able to follow a well-planned strategic path to the result. Ngolo explains:

I think it was so much teeth- and hair-pulling that at some point everybody was kind of tired of pulling on their own teeth and hair. It took one or two to turn around and become ambassadors to negotiate with others. That's the way it worked actually. By the time NGOs managed to convince one or two governments on the issue, those became ambassadors to speak to others as allies and bring them on board. And those that were brought on board then started bringing others on board. So it was a breakthrough that was quite unexpected. We have to say that, I would love to say that we were so well organized that we lined all the dots and everything just happened the way it should have happened. I mean it was a breakthrough even for us. We could not believe it when it happened ... It was not a smooth transition. Something, somewhere somebody woke up one day and said, you know, what is this phobia all about, let's try this. Once they decided to try they convinced others, no big deal – let's try this. And that's how it started. And it worked out good (Dorothee Ngolo Gizenga, phone interview, May 5, 2005).

Fewer NGOs

During the implementation stage, while Global Witness and PAC became totally immersed in the KP, other NGOs participating in the conflict diamonds campaign became less active. Fatal Transactions and the Physicians for Human Rights led the campaign in the US but did not conduct many activities during 2003–04. Public awareness activities became less frequent and less relevant in this stage. Still, in a report in April 2003, Global Witness listed the following NGOs as coalition partners on conflict diamonds: ActionAid, Amnesty International, Catholic Relief Services, CENADEP, Fatal Transactions, Medico International, One Sky, Oxfam International, Partnership Africa Canada, Physicians for Human Rights, World Vision, and Network Movement for Justice and Development. This broad support continued in the form of joint press releases before and after KP meetings that

usually were signed by these organizations. While the activities of organizations other than PAC and Global Witness were limited, their continued endorsement of the campaign showed that PAC and Global Witness were representing broader civil society.

For the KPCS to develop its genuinely tripartite structure, it was crucial that a limited set of NGOs join the KP without internal civil society debates regarding NGO representation. It was almost equally important that differences of opinion among the NGOs (regarding, e.g., how close to get to the industry, how much to compromise on volunteer peer review, whether to call for a boycott) be debated quietly outside the KP. Joint press statements reinforced the idea of a united NGO community capable of reenergizing their base for consumer action at any time.

PAC and Global Witness emerged early on as the two NGOs that would represent civil society in the KP. Most other organizations faded away because consumer awareness was no longer of great relevance and media attention was on the decline. Some NGOs, like Amnesty International, NIZA, Medico, and several African NGOs, continued to attend KP meetings occasionally. Smillie describes the changes in NGOs commitment to conflict diamonds and the KP in an interview with a Canadian journalist:

The thing was that we had full-time dedicated staff working on nothing but diamonds. If you look at the average NGO campaign, it's usually a part-time thing for somebody. They might work full-time to produce a study, but they don't stick with it. I've seen a lot of NGO work over the years, and I think this is somewhat unique. We were joined when this was really a sexy, hot issue by all the big [NGOs] – OXFAM, World Vision, Amnesty, ActionAid – we had a coalition of maybe 200 NGOs. But none of them, no matter how involved they were, had anyone working on [diamonds] full-time apart from us and a British NGO, Global Witness. And as it has become less sexy, many have dropped off. It's really been Global Witness and PAC that have been keeping up with the research, going to meetings, embarrassing the Kimberley Process when it doesn't function ... and now we're trying to expand to partner with African NGOs, which is long overdue. But I think we've been very influential. It wouldn't have happened without us and, if it did, it certainly wouldn't be half as tough as it is. People in the industry will tell you that we've been surprisingly effective for our size.

But participating in implementation was not desired by all NGOs:

Sargentini: That's why you see that some NGOs are not that present anymore ... Oxfam America, World Vision were always there at Kimberly meetings, or most of them. At a certain point they said okay, and now it's enough. Because now it's implementation. We try to critically follow implementation but we're not implementing ourselves. Global Witness and Partnership Africa Canada decided to implement, which is fine. I think that's good for them and they do a good job.

It's not our thing. We cannot, it doesn't fit our work. We cannot get the people to do that, we leave that to that.

...

Hund: And as for the Kimberly Process we said as far as it goes with technical details we back off. It's impossible to follow. And it's not for campaigning, it's not the most interesting

...

Sargentini: Before you know it you start discussing the way a Canadian diamond looks. Well, that's far off from human rights in Angola ... ActionAid, London, they stopped as soon as it was signed. The same as we changed focus (Hund and Sargentini, interview, July 18, 2005).

Participation in working groups in particular required constant NGO engagement. Global Witness and PAC developed personal relationships with state and industry representatives. In addition, they developed a reputation for expertise through their independent research reports and a reputation of knowledgeable and reasonable participation within the KP. They also learned the ins and outs of technical details regarding the KPCS, trade, certification issues, etc. At the same time, their heavy engagement was a tremendous burden in terms of time, resources, and staff. Such costs were an obstacle even for many KP states.

Monitoring Industry: The Next NGO Focus

On March 29–31, 2004, the third annual WDC meeting took place in Dubai. For this occasion, the United Arab Emirates had also volunteered to be the first KP participant to host a review visit, receiving much needed praise given that the UAE has often been criticized on issues of human rights. “We applaud the UAE for taking the lead. As the first from the forty-seven participants of the Process, the UAE has set a trend for others to follow. We encourage such transparency and believe this step will accelerate Dubai towards establishing an internationally acclaimed diamond center of note” (Izhakoff, cited in press release WDC 2004).

As before, the WDC invited state and NGO representatives to attend. Global Witness came with a critical report, which took the industry by surprise because it expected the conflict diamonds campaign to end with the implementation of the KPCS. The first page of the report, “Broken Vows: Exposing the ‘Loupe’ Holes in the Diamond Industry’s Efforts to Prevent the Trade in Conflict Diamonds” (March 2004), ridiculed the industry’s self regulatory measures. The background shows a sample invoice from a fictional US diamond company named “Dirty Diamonds Inc.” stating: “The diamonds herein invoiced have been purchased from

unknown, suspect sources that may be involved in funding conflict and terrorism and may have violated United Nations Resolutions. The seller hereby guarantees absolutely nothing, and has no idea where those diamonds come from” (Global Witness, March 2004: 1). The report presented findings from undercover visits to major diamond retail stores in the United States. Global Witness staff posed as shoppers asking questions about conflict diamonds, specifically what measures the company was taking to avoid selling such gems. Only four out of more than thirty salespeople could give any information on the matter and the few answers given reflected little knowledge of the KCPS. Most significantly, the report revealed a vast discrepancy between what leaders in the diamond industry (e.g., representatives of WDC, the Jewelers Vigilance Committee, the World Federation of Diamond Bourses, the International Diamond Manufacturers Association, and De Beers) were saying about conflict diamonds and how retailers and diamond traders were behaving in practice. The degree of ignorance at the retail level was astonishing; clearly the WDC had not reached the entire commodity chain with its education campaign about conflict diamonds and the KCPS. The ignorance of the sales personnel also suggested that customers rarely inquired about diamond origins, indicating that conflict diamonds no longer were a consumer issue and perhaps never had been. The report showed that Global Witness, though deeply involved with industry and states in the KP, was still willing and able to publish a highly critical report that surely infuriated many in the industry.

The accusations from the report were acknowledged in several industry speeches. “In addition, we must remember that continued campaigning by NGOs, focused on leading retail jewelers, seeks to put emphasis on the influence being brought to bear by retailer jewelers on their suppliers in support of this system. Widespread adherence by companies at all levels of the diamond supply chain to the voluntary system of warranties is absolutely vital to the credibility of our industry’s claims – and specifically the claims of individual retail jewelers to consumers – that industry is doing everything possible to eradicate the link between diamonds and bloodshed” (Matthew Runci address WDC 2004). Nicky Oppenheimer’s address to the WDC annual meeting stressed corporate responsibility and the issue of terrorism. “The opportunity here exists for the international diamond industry to demonstrate that it is a proud and steadfast corporate citizen, working with all other parts of society to safeguard and maintain a world in which we can all live in peace. A world, too, where our beautiful and unique product – the natural diamond – can continue to be the ultimate gift of love and recognition, untainted by association with crime, conflict or terror” (Oppenheimer address WDC 2004).

Even if the Global Witness report demonstrated that corporate conduct and knowledge about conflict diamonds may not have changed much on the ground, it is remarkable how much change had occurred in the industry since the beginning of the conflict diamonds campaign. “[T]he Kimberley Process has brought a discipline to the international trade that many believed could not be achieved. The realization within the industry that it could no longer be linked even tenuously to events in certain African countries, and that it did bear some responsibility

for due diligence in terms of the nature and intent of the people it did business with, produced a rapid change in attitude and *modus operandi*. Paperwork and accurate records, long anathema to the diamond industry, have become the norm under the KPCS” (Wright 2004: 702). This is in sharp contrast to the unregulated and secretive nature of the industry before the campaign, when deals were made by a handshake. Evidently, the conflict diamond campaign caused institutional change even beyond its intentions in an industry and corporate culture with a long tradition of secrecy.

Despite this Global Witness report criticizing the industry’s self-monitoring mechanisms, overall NGOs have not given much attention to industry implementation of its voluntary compliance code. Thus far, it appears that the voluntary nature of industry certification does not offer opportunities to press for greater controls. Instead, NGOs have focused their attention much more toward achieving compliance by states with the KPCS. As was discussed in the decision-making chapter, NGOs agreed that the trade in conflict diamonds could only be stopped through effective state regulation in accordance with the KPCS. Industry self regulation was always understood to be supplementary and thereby secondary.

Showing Teeth: Expulsion of the Republic of Congo

By 2004 the KP was meeting regularly twice a year, an intersessional in June and a plenary in October/November, without ad hoc meetings in between. Much of the communication was taking place within the working groups via conference calls. The first routine intersessional meeting was held in June 2004, in Brussels, under Canadian chairmanship. That same month, a new challenge arose that tested the willingness of the KP to act against noncompliance. The country of concern was the Republic of Congo (also referred to as Congo Brazzaville), which had volunteered for a review visit at the last plenary in Sun City. However, instead of a review visit, it now faced an involuntary review mission due to serious and credible concerns that the Republic of Congo was not complying with KP standards.² The country was suspected of issuing KP certificates for rough diamonds smuggled into the country from illegitimate, including rebel, sources. The suspicion was grounded in figures indicating exports in excess of production capacity. In June 2003, the review mission team was dispatched, with the consent of the Congo government. The result was removal of the Republic of Congo from the KP on July 9, after the review mission had confirmed the suspicions. “This was a defining moment for the KP, one with few precedents in the multilateral system” (Smillie 2005: 5). Mark

2 Review missions are distinct from review visits. Review visits are voluntary and are conducted only after a country invites a review team. Review missions are ordered by the plenary when there is evidence of non-compliance.

van Bockstael, an industry representative at the KP, credits the tough stance on Congo to the tripartite nature of the KP:

In the beginning people were saying okay, fine, the Kimberly Process is just a window dressing thing and it's not going to do anything effective and so on. That's exactly what Congo Brazzaville was thinking. Congo Brazzaville was thinking, well okay, they cannot do anything to us because there's no clause in the process documents saying something about exclusion. The funny thing about the Kimberley Process is that we wrote it, every single crisis that we had, and we came out stronger. And we came out with a solution to a particular problem. And I think that that is, it's the sanctity of the, this particular type of organization, it's not merely governments because if it's merely governments then it's difficult because governments don't really want to target other governments. Whereas here, for instance the situation in Congo Brazzaville, I mean the NGOs and the industry together, we had been saying all along, I'm sorry but we cannot accept Congo Brazzaville simply certifying diamonds that have been smuggled into the country. Everybody knew that. And because of the fact that the NGOs and the industry, the two observers if you want, were continuing to say well, there is something that should be done about this situation, that there was eventually done a review mission. A review mission is the unfriendly version of the peer review mechanism. And that was sent then to take the pulse of the situation in Congo Brazzaville. Well, one month later they were out (Mark Van Bockstael, interview, September, 27, 2005).

Once again, industry and NGO participation was crucial in the effective implementation of the process, but not in the way that watchdog functions are usually understood. Rather, NGOs and industry can actually be tougher than states, given the limitations of diplomacy and interest-oriented international relations.

Before its admission, Lebanon went through a review process due to allegations of trade with illicit sources in Africa. "Neither the Congo's expulsion nor Lebanon's admission happened without a great amount of behind-the-scenes debate, some of it quite strident. But that too was part of the KP maturation process" (Smillie 2005: 5). The expulsion of the Republic of Congo was a milestone in the KP and is frequently cited as giving a major boost to the KPCS's credibility. However, since the expulsion of the Republic of Congo, the KP has not made use of this political tool to respond to non-compliance of participant states again, leading some to question the political feasibility of this important enforcement mechanism.

In the subsequent KP plenary in Gatineau in October, the expulsion and ten voluntary review visits were hailed as great successes, while the collection, management, and analysis of statistics remained more problematic. "The creation of a consistent and comparable statistical data base has proven to be the greatest challenge to the KPCS ... Canada, which chairs the statistics working group, has made efforts to compile the data that exists, and while there have been serious

problems, even the flawed data has proven to be a treasure trove of useful information” (Smillie 2005: 6).

Russia as New Chairman

The rotating chairmanship required finding a consensually acceptable chair every year but this regular rotation does not seem to have shaped the KP in any significant way. There was little concern among observers or participants about this issue through the succession of chairs from South Africa, Canada, Russia, Botswana, and the EC. For example, NGOs expressed no concern that their access might be jeopardized with the shift from Ottawa to Moscow – even though PAC, located in Ottawa and partially funded by the Canadian government, might have had grounds for such concern, especially given Russia’s track record of limiting the input of NGOs. This consistency across chairs is explained partially by the fact that the chair itself does not possess much decision-making authority since all decisions are made by consensus in the plenary. However, the chair as chief administrator does have significant leeway in terms of setting priorities and pushing for progress. Continuity can be ensured only when basic structures are firmly established. For example, that NGOs were part of the working groups and would serve on voluntary peer review visits had been well established. The concerns aired in 2004 about Russia serving as the new chair centered not on its administrative role but on the question of whether Russian chairmanship would delegitimize the process since it had not yet adopted legislation to satisfy the minimum KP standards. Tim Martin, the Canadian KP chair, went so far as to require Russia to pass appropriate legislation before handing over the chairmanship. In addition, Russia’s motives in taking on the chairmanship were questioned as it had not been an active participant or volunteer in previous rounds of negotiations.

Besides minor complaints regarding visas and accommodations for the meetings in Moscow, Russia’s chair term was largely unproblematic; no issues were attributed to an ineffective secretariat. One notable difference from the Canadian chairmanship, however, was the governmental office that housed the KP secretariat. In Canada, the KP chairmanship operated within the Department of Foreign Affairs and International Trade in the Peace-building and Human Security Division. In Russia, and later in Botswana, both of which are diamond exporters, the KP was located in the Mining and Trade Department. Canada stressed the KP’s peace mission by its choice (DFAIT 2004); its priorities with respect to the KP were also expressed by former Canadian KP chairman Tim Martin:

And this was also something that was very much in the context of Canada’s human security policy, where our focus is on the threats to people of violence. In comparison, not in opposition but in comparison to threats to states. And if you look at the situation of conflict diamonds and internal conflict, may be not a geopolitical or international security risk but certainly something that was

connected with large scale suffering and displacement of vulnerable populations. So moving this forward was something that Canada put a lot of energy into in a way that was very much consistent with our broader foreign policy objectives ... (Tim Martin, interview, May 6, 2005).

Implementation with Minimal Institutionalization

While implementation entailed increasing institutionalization of procedures, exemplified by the KP's stability despite the rotating chairmanship, many key activities continued to operate on an ad-hoc basis. "Informal volunteerism has enabled remarkable progress in just a short time, but some of the scheme's shortcomings may reflect the limitations of indefinitely relying for administration on individuals who have been volunteered by their states or organizations. There is a sense that too much is decided ad hoc, but there may be no stomach for a lengthy re-negotiation that could reopen settled points or divert resources from the real business of improving operations. Lessons are being learned, but there is no institutional presence to collect and integrate them into the scheme's policies or operational principles, or to share them with other multilateral actors" (Independent KP Review 2006: 7).

The KP was expected to run smoothly without a budget, secretariat or professional staff, but it proved difficult to absorb the increasing workload (e.g., the collection of statistical data for over 40 participants engaged in a multibillion dollar trade). That implementation was not matched by more formalized bureaucratic became a hot topic in the KP's self-review, discussed later in the book, in the revitalization chapter.

Watchdogs Required: The KPCS in Brazil

On January 25–26, 2005, PAC, Global Witness and De Beers co-sponsored a meeting in London to discuss and initiate the Diamond Development Initiative (DDII). Industry, state, and NGO representatives attended. The meeting resulted in the DDII inaugural meeting in Accra ten months later; this meeting marks the transition to the revitalization stage. The DDII built on relationships developed under the KPCS between the industry and civil society, specifically De Beers, Global Witness and Partnership Africa Canada. The DDII broadened the frame of conflict diamonds to include the developmental impact of the diamond industry. But emerging activities surrounding the DDII did not distract NGOs from participating in and monitoring the KPCS. The significance of the events surrounding the DDII will be explained in Chapter 6.

At the June KP intersessional meeting in Moscow, discussions focused on statistics and the upcoming three-year KP review. The meeting also found Brazil attempting to vindicate itself with respect to NGO charges of KPCS violations in a

PAC report published the previous month, "The Failure of Good Intentions: Fraud, Theft, and Murder in the Brazilian Diamond Industry" (May 2005). The report outlined a range of illegal activities linked to diamond extraction, implicating several Brazilian government officials and charging that KP mechanisms had failed to uncover or prevent these violations. Marking the first time that a conflict diamond problem was identified outside of Africa, PAC was surprised by Brazil's extensive presentation in which it vehemently denied the charges. Brazil also wrote a letter to the KP chair, expressing outrage at PAC's allegations and questioning the organization's legitimacy. "The journalists or detectives have pointed out distorted information, due either to bad understanding or to bad intentions, concerning legislating regarding environment, mining, customs and excise and national security ... The report is written in ironic and sneer language" (Brazilian letter to KP Chair, June 2005). Brazil's letter enclosed a copy of a picture from the PAC report that it found particularly offensive: "We stand out one of the pictures of the report, which shows our Kimberley Certificate irresponsibly torn apart" (Brazil's letter to KP Chair, June 2005). Brazil voiced particular concern that PAC had violated principles of sovereignty. According to the Brazilian letter, PAC "expresses to be undergoing investigations to 'contribute' to the formulation of mining legislation in Brazil" and "The external interference in the Brazilian mineral policies, in the way it was presented in the PAC report, does not contribute to the improvement of the activities of the Brazilian mineral sector" (Brazilian letter to KP Chair, June 2005). PAC's response, written two weeks later by its Executive Director, Bernard Taylor, insisted that its investigations did not intrude on Brazil's sovereignty. "Our recommendations for change were not intended as an intrusion into Brazilian sovereignty. But we are concerned that Brazil's name – which arises frequently in a negative context in international diamond circles – will be further impugned if the weaknesses in its KP system are not rectified. And we are seriously concerned that if Brazil is unable to address the problems that have been clearly identified, the KPCS itself will be severely weakened" (June 27, 2005, Bernard Taylor, Executive Director PAC).

The letter by the Brazilian government had been posted on the KP website; PAC asked for the same exposure for its letter. "Mr. Chairman, we feel, in fairness – because Brazil's letter about our report has been posted on the KP public website – that our response should also be posted on the public website so that readers have an understanding of the context for the discussion" (PAC letter to KP Chair, June 2005). The letter was posted, making the dispute entirely public. This is the only instance so far of such an open dispute within the KP. Brazil's rebuttal attempting to delegitimize PAC was unique; other implicated states have responded more positively to NGO reports. In the following months the individual who ordered the rebuttal of the PAC report was arrested under corruption charges and Brazil apologized to the entire KP.

Watchdogs from Outside and Inside the KP

The Brazil report showed how NGOs were actively involved in implementation by providing concrete recommendations on how to implement the KPCS on the ground, offering to engage in direct dialogue with relevant officials. Thus, the Brazil case showed not only that NGO reports were taken seriously but also that PAC served an important watchdog function by pointing out implementation problems and violations by KP participants. “Many of the implementation problems are not willful or deliberate, but are the result of genuine capacity problems in some countries. Continuing NGO investigative research and pressure has been useful in keeping these issues alive, if not solved” (Smillie 2005: 6). PAC and Global Witness demonstrated their continued commitment and capacity as watchdogs of the process even though they themselves were inside the system. Corinna Gilfillan from Global Witness USA describes how NGOs served as watchdogs both inside and out:

So it’s really interesting because we’ve become part of the KP. You know we’re inside the KP but yet we also I think play two roles because we take part in the KP and work to strengthen it from inside the process, but we also continue to watchdog process from the outside. We also watch-dog how the diamond industry is operating in key diamond trading and producing countries, so that we can raise concerns or problems that we find and push for them to be addressed. So some of the work that we do is more confrontational and some of it is more collaborative. And we use a variety of different actions and approaches and strategies in order to be able to be effective and to help really address the problems that identify with this (Corinna Gilfillan, phone interview, September 20, 2005).

Their role as watchdogs was not limited to their official activities within the KP, as members of the working groups on monitoring. Global Witness and PAC continued to produce independent reports as well, thereby pressuring the KP from outside. This outside monitoring proved important to complement the inside track, as political will or attention on the part of states and the industry might have faded in its absence. Such detailed investigations on a single participant like Brazil could not be conducted by the KP internally.

Insider NGOs Perceived as too Close for Comfort

Despite these activities by Global Witness and PAC, continuing to release highly critical reports irrespective of their own insider status in the KP, other NGOs were skeptical of their insider status. They feared that such involvement would lead to cooptation by their targets, the states and the industry. From this perspective Global Witness and PAC were in danger of becoming “one of them”:

Hund: But I would say that especially Global Witness and Partnership Africa Canada are more or less part of the Kimberly Process right now because they are in all those working groups, technical working groups and all the nitty gritty details. So they all, they're almost one of the guys if I should say so.

Sargentini: That's a debate that comes after that. If you are accepted as useful source or as legitimate, or your demands are legitimate, and you are happy with that and you work with that, incorporation is close by. And that's what we've been very careful on, not to be incorporated.

Hund: It's very hard to be critical of a process that you're so much involved in (Hund and Sargentini, interview, July 18, 2005).

Outsiders thus believed that watchdog functions could not be effectively performed from within. The suspicion that Global Witness and PAC were being coopted by the industry would resurface during the revitalization stage in connection with the Diamond Development Initiative, when a rumor circulated claiming that these NGOs were in bed with De Beers.

Besides this skepticism, a major reason for decreased involvement in implementation by many NGOs was the matter of capacity. On the one hand, it was difficult to raise funds and justify participation in implementation when the issue and tasks were less newsworthy and the overall sense of urgency had dissipated. On the other hand, significant resources were needed to participate effectively in implementation. Thus, for many NGOs the implementation stage meant less income and greater costs. On top of that, given that much of the work occurred in working groups and involved technical details, it was not sufficient to attend the yearly KP plenary. Rather, regular, almost day-to-day involvement in the working groups was required.

Voluntary Peer Review System

One of the aspects of monitoring adopted at the KP plenary meeting in South Africa in October 2003, was the voluntary peer review system. Voluntary peer review visits are conducted by review teams, which are composed of three state officials, one industry, and one NGO representative. Subsequent to their country visit, review teams write a report and make recommendations for improvements. NGOs initially feared that the voluntary nature of the system could lead to serious delays and refusals by some states to host reviews. However, by June 2005, 18 reviews had already been conducted, many more were scheduled, and "there was no country left in the KPCS that had not requested one" (Smillie 2005: 5). Voluntary peer review became morally compulsory for all KP participants. The legitimacy of countries not volunteering for a review was threatened, essentially making volunteering the "normal" and "expected" behavior while not volunteering

was normatively sanctioned. “Originally conceived as voluntary, it has evolved in just two years into an unavoidable aspect of KP participation” (Independent KP Review 2006: 9).

It is remarkable how many countries volunteered to be inspected. What motivated them to step up? The literature frequently cites shaming or the threat thereof as an important incentive for countries to come aboard, especially the more sluggish ones. In the case of the KPCS’ voluntary peer review mechanism, shaming, while important in compelling countries to volunteer, took a slightly different form. While the KP chair, especially under Canadian leadership, actively encouraged countries to volunteer, at no time did the KP or NGOs publicly announce who remained unreviewed. Of course, to KP participants and observers it was clear who had not yet hosted a review visit, but publicly the focus was on the number of reviews conducted so far. The KP could easily have posted a list on its website showing all the countries that had welcomed a review visit, thereby praising volunteers rather than shaming latecomers. While there was some debate as to whether or not to publish such a list (either of volunteers or of latecomers), the step was never taken and the discussion subsided. More importantly, not even the NGOs have conducted a shaming campaign. This may be due to the fact that so many countries volunteered quickly, giving the lie to the NGOs’ initially low expectations and impressing them positively about the workings of the system. However, not even in later stages of peer review, when only a minority of states remained unreviewed, did shaming become a strategy by the KP or NGOs. Of course, the more countries that volunteered, the more difficult it became for others not to volunteer. But even before peer pressure kicked in, countries quickly came forward to be inspected. Shaming was not necessary to convince most countries to host a voluntary review visit. It is therefore more likely that countries volunteered not out of fear of reputational damage so much as from a sense of wanting to be respectable KP participants and good global citizens. In that sense, shaming was at work, but not through direct “name-calling” campaigns; instead, strong normative principles defined and prompted appropriate behavior on the part of KP participant states. As with the public awareness campaign during the decision-making stage, direct shaming lurked in the shadows as a latent threat that encouraged proper actions.

That countries volunteered so quickly without a credible threat of shaming is even more striking for two additional reasons. First, countries agreed to be inspected by other states that were not necessarily geo-political allies, by industry representatives with their own competitive market interests, and by NGOs who have been known as strong critics of states. As it turned out, the voluntary peer review visits were generally positively perceived by the host states, even while the review team’s investigation was underway. “The fact that the KP [review] works well in most participating countries is a reflection of the strong sense of cooperation that exists between the governments of those countries and the industries and non-governmental organizations that operate within them” (Rick Meyers, Canadian review team leader, presentation WDC 2006). The tripartite

setup of the review visits was not questioned by any host country or by the KP as a whole; instead, the composition of review teams was based on expertise and availability, taking for granted the tripartite formula of three state, one industry, and one NGO representative. The important features of a review team were specified by Rick Meyers, who himself led several KP reviews: “Understanding of governance; Knowledge of the country and its laws; Industry contacts and the domestic market; Statistical expertise; A sense of diplomacy and cooperation” (Rick Meyers, presentation WDC 2006). He did not remark on the importance of NGOs or industry representatives in particular; rather, all review team members were expected to bring the same “expertise” to the task.

Second, after early review visit reports had been published on the KP websites (entire reports on the password-protected KP internal website, summary reports on the public website), participants saw that the reviews were not merely a formality resulting in toned-down findings or weak recommendations. To the contrary, the review visit reports frequently pointed to clear shortcomings and expected states to make improvements that would be explained in the upcoming annual reports that were to be submitted to the chair. In this situation, one might expect that states would become increasingly hesitant about reviews; they were not just pro forma and inadequate implementation was readily identified. Moreover, if the NGOs do not agree with the recommendations of a given report they can write a minority report:

If we are not we do reserve the right to write a minority report. I think nobody likes that but if push comes to shove and we did not agree with the position of government we'll write our own separate minority report. And that is not something that is pleasant to governments to know that we will take that action but at the same time I think it keeps them on their toes knowing that this is not a tourist visit where we are just patting each other on the back. We are there to go and see that that the system works and where it doesn't work we want to point the possible loopholes, we want to point out the possible weaknesses of the system because that is what it's all about to ensure that there is no conflict diamonds. And the governments that's the main problem is that that's why they really need the NGOs to be there. They tend to play diplomacy more than anything else. They want to be nice with each other. That's not our concern. So we go beyond diplomacy. We leave the diplomacy to them and we keep squeezing where it needs to be squeezed. That is not always popular but that's fine. Somebody's got to do it (Dorothee Ngolo Gizenga, phone interview, May 5, 2005).

The power to write a minority report, though not exercised to this point, is substantial and further suggests that states' willingness to have NGOs participate in review visits was not merely a disingenuous attempt to turn the reviews into meaningless charades. States accepted the tripartite process and they accepted NGOs' roles and authority. The tripartite nature of review visits is a further example of how NGO participation can involve both implementation and monitoring or watchdogging.

Review visits are an example of how NGOs can conduct their watchdog function from within. They also show how tripartism was extended to all aspects of the KP and well exceeded the legitimization purpose that may have been important initially.

We Are Family

“Many insiders refer to the ‘Kimberley family’, and early antagonists have become friends and genuine allies” (Smillie 2005: 7). This is a remarkable transformation that was proudly described by the industry and some states, perhaps less so by NGOs. “While we cannot be complacent, I do believe that the Kimberley Process community can take satisfaction from the progress that is being achieved ... Moreover, the spirit of dialogue, cooperation and energy between different stakeholders – which has been the driving force of the process – is alive and well” (Tim Martin, 2004 KP Chairman, address WDC 2004). As is evident in Ian Smillie’s remark, NGOs too acknowledge the “Kimberley family” but closeness to the industry is always a matter of concern within the NGO community. The transformation of relations among state, industry, and NGO representatives at the KP is due to several factors. First, NGOs have behaved with restraint and professionalism throughout the process. Second, while intersessional meetings usually gathered about 60 individuals and the plenary around 150, meetings of working groups brought together only about 10 individuals, meeting frequently and in less formal settings. The same group of most active and committed KP individuals also showed up at other ad-hoc meetings discussed in the implementation and decision-making stages. Moreover, some individuals have been with the KP from the start. This is especially true of observers (NGO and industry representatives) but also of some states with stable delegations. These “old-timers” have developed close relationships across sectors and have learned what to expect from each other, knowing that issues can be resolved and that the sometimes heated debates have not caused permanent damage to established relationships.

Interpreting Implementation

As in the decision-making phase, early implementation of the KPCS was a test period enabling participants to find out what works and what doesn’t. While in the decision-making stage certain contentious items could be postponed, during implementation there was more at stake. In this stage, weaknesses anywhere in the system would threaten the credibility of the entire system. Negotiations on what constitutes such weaknesses and what changes to the KP were necessary to address them continued during implementation. This runs counter to most discussions of implementation, which view the process as a matter of states passing and enforcing legislation that the industry then follows or tries to avoid

following. While the central KPCS document remained unchanged, flexibility and continuing opportunities for exchange among the parties was crucial to transform the weak agreement into an institution that has been lauded as more effective than many international, legally binding treaties. While serious weaknesses in the KPCS remain and implementation by no means is complete or satisfactory to all parties involved, the degree of change that was achieved through this global tripartite certification process that regulates the international diamond trade is unprecedented. The key question here, then, is this: How could the KPCS be an effective regime if it was only voluntary, with no central bureaucracy or budget?

While the early months of implementation were marked by significant delays, two signal achievements marked the first year of the KPCS's existence. One was the expulsion of the Republic of Congo; the other was the adoption of the peer review mechanism. These two events exhibit well the processes leading to successful implementation.

Threats of Expulsion

Implementation of the KPCS is facilitated by the real threat of expulsion from the KP, which carries considerable material costs for any trading nation. The expulsion of the Republic of Congo showed that the KP had the political will and capability to be tough on violators. Expulsion is not a political tool that is easily or frequently used, a problem I will further discuss in the next chapter.

While the threat of expulsion may be a more credible tool to pressure politically weaker states (Republic of Congo, Congo Brazzaville, and Lebanon) into KP compliance, extensive implementation efforts were undertaken by many powerful states. Many states went to such great lengths to meet the requirements spelled out in the KPCS. KP participants submitted trade statistics, participated in plenary and intersessional meetings, and even hosted volunteer peer review visits. Instead, states could have delayed implementation, complained about intrusive requirements, or implemented phony systems, serving as window dressing rather than real efforts in regulating the diamond trade. But, most states have largely followed implementation requirements and complied rather fully. The influential role of NGOs is crucial to understanding the substantial efforts made by many states to implement this voluntary agreement.

While the actual means for expulsion or suspension lay with all KP participants (through consensus agreement in plenary), NGOs supply states with the necessary political will by exerting normative/moral pressures and by reminding them of the material interests that are at stake. The threat of expulsion or suspension from the KP is only achieved through the involvement of NGOs. NGOs increase the stakes for states not to tolerate weak links in the system. They do so by reminding states and the industry that no one can guarantee conflict-free diamonds unless everyone is in full compliance. NGOs can shame participants for tolerating non-compliant countries' continued trading under KP certification. NGOs are crucial in creating the political will of states to implement the KPCS properly.

Furthermore, expulsion is a viable political tool only if violations of KPCS requirements can be detected, measured, and verified. Here too, NGOs have been crucial in their incessant calls for improved statistical requirements and a review mechanism.

Voluntary Peer Review Visits

The case study shows that the voluntary peer review visits did not offer states a stamp of approval that was easily earned simply by showing good will. Review teams took their task seriously, exposed weaknesses, and made specific recommendations for improvements in the implementation of the KPCS' minimal standards. We thus must ask why states were willing to participate in this intrusive peer review system, and the answer lies with normative cultural explanations. States volunteered to gain legitimacy and to legitimize the KP as a credible global certification system. States knew that if the NGOs walked out of the KP, the process, no longer tripartite, would have lost much credibility in the public eye, with the UN, and with wider global political audiences. With the implicit threat of abandoning the KP, the NGOs effectively forced states and the industry to convince hold-outs to go along with a review mechanism.

My narrative shows that shaming was an important stimulus to states' willingness to volunteer for peer review visits standards, thus matching similar findings in the NGO literature (Keck and Sikkink 1998; Smith et al. 1997; della Porta et al. 1999). In this case, shaming consisted not so much of name calling or castigation of non-volunteers; rather, it unfolded through processes of positive rewards and legitimacy bestowed on those who volunteered early coupled with the threat of shaming, should countries prolong their unwillingness to host a visit. Not volunteering became a non-option while volunteering became the normative and practical default option.

The KP allows us to draw three conclusions on monitoring processes in the KP. First, concerns about cooptation regarding NGOs' insider status in the KP – the question of their independence as monitors – proved unfounded. Other NGOs, more distant from the KP, expressed their concern that insider NGOs were being co-opted by the industry. At the same time, the NGOs' legitimacy *vis-à-vis* the industry was problematic if they appeared too closely allied to or dependent on certain states. While states and industry can gain legitimacy through their association with NGOs, for NGOs the converse applies: they can lose legitimacy by association with states and companies.

However, my analysis shows that NGOs involved in the KP, Global Witness and PAC in particular, effectively monitored the KP despite – and even because of – their insider status. Actually, they monitored the process as both insiders and outsiders, aiding in official KP monitoring procedures and challenging the overall system with reports and research conducted from outside. The Brazil report (by PAC) and the Global Witness report on industry non-compliance show that even the NGOs directly involved in the KP were not shy about publishing critical analyses

that revealed failures by particular states (something that states will not do, for diplomatic reasons). These reports are examples of both shaming and monitoring, reflecting the NGOs' efforts to ensure effective KP implementation from within and from without.

A second conclusion is that monitoring was conducted not only by NGOs but by the industry and states as well, in the tripartite review visits. Voluntary review visit teams consisted of state, industry and NGO representatives. For states this meant to inspect and critique their peers' domestic implementation schemes. Industry and especially NGOs ensured that these visits would not turn into mutual praises between states. Indeed the tripartite monitoring produced much more than stamps of approvals but review teams took their tasks seriously. Concrete recommendations for improvements were usually given and reviewed countries were required to show progress in their required annual progress report to the KP chairman.

Third, NGOs were involved in much more than monitoring; they had a hand in a host of aspects of implementation. NGO actions went well beyond the issues of transparency and monitoring, extending to matters of national implementation and even the expulsion of participants. The KP shows that we cannot narrowly define the roles of the three sectors in this stage. While most accounts of such processes describe a clear division of labor, the tripartite implementation of the KP defies this normal pattern. Labeling states as enforcers, industry as adopters, and NGOs as monitors is simplistic and does not account for the range of activities that occur in a concerted effort. We see tripartism in all aspects of implementation at work in the KP, notably in the system of working groups. Again, if NGO involvement were only to serve as window dressing, nongovernmental actors would not have become explicitly involved in the working groups and voluntary review visits. Their involvement and influence far exceeded the merely supportive role of an observer or advisor; these small, weak nongovernmental actors were at the very core of KP implementation.

NGO involvement and tripartite implementation in general were partially facilitated by the fact that many aspects of the KPCS developed on an ad-hoc and volunteer basis, without having developed the bureaucratic capacity of a secretariat or central budget. I explained why the KP did not develop a more formal organizational structure in the previous chapter. Here this lack of formalization is explanatory: Had states been able to agree on common funding of a secretariat, the NGOs' roles in various aspects of implementation most likely would have declined as those tasks could have been conducted by the KP headquarters. The irony is that state concerns about sovereignty, and state hesitation to become deeply involved, in essence gave the NGOs and industry an even greater role as policy makers and implementers. The ad hoc nature of implementation allowed for greater nongovernmental involvement. Structural cultural norms about the legitimacy of NGOs in the global political process led to the official inclusion of NGOs as experts and advisors. Structural organizational opportunities (in the form of the KP's limited official capacities) led to NGO involvement in implementation

and rule making. The KPCS shows that while there are clear challenges associated with the ad hoc nature of the process, implementation was able to move forward through the efforts of the non-state actors, particularly the NGOs.

However, for long-term implementation it appears that this mode is unsustainable. Whether over 70 member states' compliance can effectively be monitored will in large part depend on the continued involvement of NGOs. Their roles and the KP's capacity in ensuring a conflict-free diamond trade remain to be explored in the revitalization stage.

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Chapter 6

Revitalization: Resetting Agendas and Reinvigorating the Campaign

Developments Leading up to Revitalization

In January, 2003, the Kimberley Process Certification Scheme (KPCS) went into effect in 37 countries and the European Union. This voluntary agreement was reached after two and a half years of negotiations among states, NGOs, and the industry. Only states had official participant status in the KPCS, which required them to implement the KPCS's minimal standards through domestic legislation. NGOs and industry were given the status of "observers" but their involvement continued to significantly shape developments in the KP.

The KPCS is an international political agreement. While participation is voluntary, it in essence became compulsory for any state that wishes to trade rough diamonds since KP members agree to trade only with other KP participants. Despite some initial delays, the certification system was up and running by June 2003. KP member states began to pass and implement national legislation in accordance with the KPCS standards, including the issuance of KP Certificates, provision of an annual report and quarterly trade statistics to the KP chair, and, for diamond producing nations, establishment of a chain of custody for all diamonds, from the mine to the point of export.

Several key events unfolded during implementation. The expulsion of the Republic of Congo in July 2004, due to significant non-compliance with KPCS requirements, showed that the KP had the means and the political will to enforce the agreement. The adoption of a voluntary peer review mechanism in October 2003, was an important addition to monitor compliance with the KPCS. The peer review delegations consisted of state, NGO, and industry officials, though NGOs were initially skeptical that states would actually volunteer for the inspections. Their skepticism subsided as many countries rapidly stepped forward to volunteer to host review visits.

Despite increasing bureaucratic requirements and mechanisms established during the implementation stage, the KP remained essentially without a formal organizational structure: no budget, staff, or secretariat. Many procedures were of ad-hoc character or dependent on volunteers, such as the annually rotating KP chairman and memberships in the various working groups. Increasingly, the unequal burdens borne by KP participants and observers became an issue of contention.

Onward to Revitalization

Revitalization has two aspects: (1) extending the new standards or norms to other issue areas; and (2) movement actors renewing their efforts to ensure that states and TNCs continue to comply with the norms or agreements which were newly developed.

First, the broader role of diamonds in national development gained increasing attention. As many of the conflicts that initially spurred the creation of the KP came to an end in – mostly fragile – peace agreements, the KPCS's purpose was redefined as prevention and the conflict diamond campaign increasingly focused on development diamonds. The new focus on development and diamonds emerged much more in a bottom-up fashion than the conflict diamonds campaign. Local African NGOs were able to shift the focus of the conflict diamonds campaign to development issues and artisanal mining, concerns long at the forefront of the local NGOs but not of the KP. Moreover, engagement on the development diamonds issue also showed that the tripartite structure – NGOs, states, and industry – has been internalized by many participants. I show that, while frame bridging between conflict diamonds and development diamonds has been quite successful, important challenges for the Diamond Development Initiative remain. First, it is more difficult to garner support for development diamonds as it does not lend itself to the same splashy, “sexy” consumer campaign that was possible with conflict diamonds. In addition, concerns of cooptation by getting too close to the industry persist, though NGOs' reputation as tough watchdogs in the KP, despite their insider status, is mitigating some of these fears.

Second, efforts regarding compliance and accountability had to be continuously reinvigorated as the KP, member states, and the industry drifted into forgetfulness. Initially, the public awareness campaign was revived with the highly publicized release of Edward Zwick's film, *Blood Diamond* (2006), and a number of documentaries on conflict diamonds. NGOs recognized a serendipitous opportunity to reinvigorate the public awareness campaign. While some NGOs were reluctant to jump on the *Blood Diamond* bandwagon, others like Amnesty International were eager. The industry had learned its lessons in the agenda setting stage so it was better prepared to react to the movie through its already established organizational structure, namely the World Diamond Council (WDC). Nonetheless, even without a major NGO initiative, the industry was once again on the defensive. These pressures that were sparked by the film, both before and after its release, yielded a more engaged industry that now joined the NGOs in tackling the increasing stalemate and stagnation that characterized the KP in 2006.

Most recently, NGOs efforts have been captive to monitoring. Having uncovered serious implementation challenges in several KP member states, most notably Brazil, Ghana, Guyana, Venezuela, and Zimbabwe, the KP has not stepped up with meaningful enforcement mechanisms leaving the KPCS with the lowest approval rating ever. The overall positive mood and sense of achievement about much of what had been achieved during implementation was fading. Instead, particularly

NGOs, expressed a growing sense of disillusionment about the effectiveness of the KP and the political willingness of member states. While consensus and limited capacity was discussed in the last chapter as an opportunity for NGOs to exert influence, these same structures now appear to hinder effective implementation.

In this chapter I first turn to “development diamonds” as a new issue area and then explore activities surrounding compliance with and accountability of the KPCS.

“Development Diamonds”: Branching Out

Kimberley certificates verifying the origin of rough diamonds accompany the diamonds from the point of export in one country to the point of import in another. Each KP participant that is producing diamonds is responsible for developing and implementing an internal control system that tracks all diamonds from the mine to the point of export. The quality of internal control systems varies greatly from one KP participant to another, however. Implementing effective internal controls is most difficult for countries with alluvial diamond reserves. Alluvial diamonds are found in vast areas, usually along riverbeds, and these areas are often beyond the control of both states and the diamond industry. Alluvial diamonds are most frequently mined by artisanal miners who work with simple tools and often earn less than \$1 per day. Kimberlite diamonds, on the other hand, are mined with capital intensive machinery that extracts the diamonds directly from a volcanic pipe. Botswana, the poster child for positive African development based on diamonds, extracts its gems from Kimberlite mines. African countries with large alluvial diamond reserves are Angola, the Central African Republic, Côte d’Ivoire, DRC, Guinea, Ghana, Liberia, Sierra Leone, and others.

Artisans mine between 10 and 20 percent of the diamonds used for jewelry, which makes them an important part of the industry (PAC/Global Witness 2004). They have no better employment opportunities and typically hope to make a “big find” in the diamond fields. But the vast majority, despite their back-breaking labor, will never find that large stone. The diamonds they dream of are referred to as “poverty diamonds” but are closely linked to “conflict diamonds”: “The poverty, the hundreds of thousands of willingly exploited adults and children, and the volatility of the diamond fields make for a highly flammable social cocktail, one that has ignited several times in recent years, with tragic results” (PAC/Global Witness 2004: 6–7). The alluvial sector is closely linked to civil wars in those countries and has led to regional and international instability. Rebels continue to control alluvial diamond fields and poor artisanal diamond workers are easily recruited for rebel armies or to sell the diamonds they find to regional warlords. In addition, a whole range of social problems is associated with artisanal mining: child labor, HIV infections, environmental destruction, crime and violence, poverty, unhealthy and dangerous working conditions. Some states have declared the alluvial diamond mining sector illegal, while most states neglect it altogether,

thereby exacerbating the problems. “There are no cases in Africa where artisanal diamond mining has been supported and regulated successfully” (PAC/Global Witness 2004: 8).

Pre-2004 Initiatives on Artisanal Mining: Local NGOs, Bilateral Aid Agencies

The conflict diamond campaign, in particular Global Witness and PAC, did not pay close attention to development issues relating to alluvial miners until late 2004. But local African initiatives appeared as early as the beginning of 2002, as soon as relative stability emerged in the region. Various pilot projects attempted to address the issue.¹ For example, the government of Sierra Leone created a “Diamond Area Community Development Fund”, through which part of the export tax on diamonds is directly returned to the artisanal diamond communities. The DRC created an organization to assist in creating mining cooperatives. The “Campaign for Just Mining” was launched by the Network Movement for Justice and Development (a Sierra Leonean NGO and Southern partner organization of PAC) in January 2000, following the widely publicized PAC report “Heart of the Matter” on Sierra Leone. The Campaign for Just Mining’s goals are to “promote sustainable development in Sierra Leone by advocating accountability, transparency and social responsibility within the mining sector” (PAC/Global Witness 2004: 11). The campaign is squarely rooted in a human rights frame, or as they call it, a “rights-based approach to mining”, including the right to a sustainable livelihood (i.e., formalizing diggers’ employment status), the right to basic services, the right to security, protection of the environment (ensuring long-term human security, including food security and avoiding illnesses such as malaria), and the right to participate in various decision-making processes (see PAC/Global Witness 2004: 12).

Many of these local initiatives were funded through bilateral aid, which was often forthcoming after peace agreements had been reached. The “Peace Diamond Alliance” was launched in December 2002, organizing diggers in cooperatives to help them obtain better prices for diamonds. It was funded by USAID and managed by Management Systems International, a Washington-based consulting firm. “[It] has brought together an eclectic group of local and international NGOs, diamond buyers, mining companies and government officials” (PAC/Global Witness 2004: 11). Other pilot projects too, were initiated by state donor agencies and NGOs. Bilateral agencies like USAID and some IGOs, notably the World Bank, committed funds and organizational capacity to the issue of artisanal and small scale mining. Many of these initiatives grew out of foreign policy efforts by states, especially the US and Britain, sometimes in relation to their brokering of peace agreements. For instance, I described earlier how US inaction on Sierra Leone was followed by several high-level governmental visits in the fall of 1999, slowly making the Sierra Leone conflict a priority in Africa, at least in rhetoric. This involvement brought USAID and other bilateral agencies into the region. Moreover, the civil wars in the

1 These are reviewed in detail in “Rich Man Poor Man” (PAC/Global Witness 2004).

area, particularly in Sierra Leone, had become closely associated with diamonds during the course of the conflict diamond campaign and the Kimberley Process. The mining initiatives emerged in the context of bilateral agencies' attempts to address one of the primary "causes" of the wars.

These initiatives reveal several important characteristics. First, they frequently were organized in a tripartite fashion. Multi-stakeholder models had been firmly established in the development/aid sector by the late 1990s, usually meaning that national and local civil society partners were involved. In the case of mining and resource extraction, where state and industry are frequently co-owners, it meant that the industry too was an important partner or stakeholder for small scale mining initiatives.

Second, the bilateral funds that were disbursed for artisanal diamond mining projects showed that the issue of poverty or development diamonds was already on the agenda of some state donor agencies by 2002/2003. For one thing, development/aid projects were in the making prior to and unrelated to the conflict diamond campaign. For example the World Bank's Community and Small Scale Mining initiative, launched in March 2001, had been in the works since September 1999. It focused in large part on artisanal mining in South America as well as Asia. But government donor agencies' agendas were also affected by the conflict diamond campaign in early 2000. For example, the third annual general meeting of the World Bank's Community and Small Scale Mining Project in September 2003, was held in Ghana, with diamond mining prominent on the agenda; among other things, PAC gave a presentation on the KP. Also, the aid that followed peace agreements was intended to address the circumstances causing conflicts. The conflict diamonds campaign had made diamonds appear to be especially important as a source of conflict; the Sierra Leone war, for instance, had come to be defined almost entirely as a conflict diamonds issue. Thus, the conflict diamond campaign influenced related aid and development responses in 2002 and helped put artisanal diamond mining on the agenda of some governmental aid agencies.

Third, the emergence of the development diamond projects also shows that the development frame was on the agenda of local NGOs in former conflict-diamond areas. For many African NGOs, in fact, these developmental aspects related to artisanal miners were always at the forefront and many African NGOs were eager to shift the focus of the conflict diamond campaign towards underlying issues of development. Prior to 2004, African NGOs were unable to add the development frame to the global public awareness campaign, and the Western NGOs leading these efforts, focusing narrowly on conflict diamonds. However, African NGOs became partners of bilateral aid agencies eager to work with civil society on local development projects on small scale mining. That is how they were able to pursue a broader, more holistic approach to the role of diamonds in conflict regions and to get the Western NGOs to broaden their focus.

*Diamond Development Initiative:
Connecting Conflict Diamonds and Development Diamonds*

African NGOs were involved in artisanal development projects, in some cases as local civil society partners of bilateral aid agencies, as soon as relative stability emerged in their regions, allowing for more civil society engagement. This was well before the conflict diamond campaign took on development issues and artisanal mining. This does not mean that Western campaigners were unaware of or unconcerned about the developmental challenges related to diamonds, but they wanted to have one clear message in the public awareness campaign and not take on too much too quickly. In earlier chapters I have discussed the strain on PAC's and Global Witness's resources due to their heavy involvement in the development and implementation of the KPCS. Ian Smillie from PAC describes the move toward development diamonds thus:

I mean we always knew that there were other issues besides conflict diamonds and we were often asked you know, are you doing anything about child labor or environmental issues or you know fair prices and we said no. And I think one of the reasons for success. You know if you look at the forestry, the attempts to get controls in the forestry industry; one of the reasons they're not successful is that they're trying to do too many things: illicit timber, conflict timber, environmental issues. I was at a conference; they're even concerned about Monarch butterflies. Well you know if you try to get every single issue into it you're going to have a very hard time. We were aware of some other issues but we decided that we were not going to get involved in any of them until we had solved this problem with conflict diamonds. We had to keep our eye on that ball. And I think that was a good, a good move. But we were aware of these other things and so by 2004, as the Kimberley Process was coming on stream, it seemed an obvious time to start thinking about some of these things. But the fundamental issue was not sort of a whole stream of other problems around diamonds. It remained the fundamental problem, the thing that had really made conflict diamonds possible in the first place and that's the sort of extreme poverty and confusion in the diamond, in the alluvial diamond fields (Ian Smillie, interview, July 6, 2006).

From the relatively disjointed artisanal mining initiatives described above emerged a more coordinated effort within the conflict diamond campaign. For PAC, linking the conflict diamond campaign and development perfectly suited its organizational mission and expertise. PAC describes itself as working "in partnership with organizations in Africa, Canada and internationally to build sustainable human development in Africa" (PAC website, n.d.). Its African partner NGOs reminded them of the diamonds-development link. While PAC's reports on South America (Brazil, Guyana, and Venezuela, described in the previous chapter) appeared to have expanded beyond the KP in other directions, the development frame allowed

for closer collaboration with its local African partners on a development theme centered on Africa. However, development diamonds took Global Witness in a direction with which it was not familiar, as it specialized in investigating the links between natural resources and conflicts.

PAC's first publication with a development focus was "The Diamond Industry Annual Review" on Sierra Leone, published in January 2004. It discussed labor standards and the low wages of miners, the problem of child labor, and the environmental impact of diamond mining. It was published by the Diamonds and Human Security Project, which was organized by PAC and the Network Movement for Justice and Development (NMJD), a local NGO partner in Sierra Leone that was especially concerned with the development issue. The primary purpose of this newly created publication series, "The Diamond Industry Annual Review" was described as follows: "The *Annual Reviews*, published in English (and French in the DRC and Portuguese in Angola), aim to provide greater awareness of the diamond industry in countries where public information on the subject is scant, and they have proven to be a useful tool for civil society organizations in these countries to hold their governments accountable for better management and greater transparency" (PAC website, n.d.). That development frames found their way into the conflict diamond campaign can therefore largely be understood as a "trickling-up" of ideas from local, grassroots NGOs into the conflict diamonds campaign, which had increasing space for renewed content once implementation was underway.

Much of the research conducted in the "Diamond Industry Annual Review" on Sierra Leone would inform the second report, "Rich Man Poor Man", published in October 2004, which would trigger industry commitment on the matter and eventually result in a new global tripartite initiative. "Rich Man Poor Man" was written by PAC and Global Witness and laid out in detail the challenges of artisanal diamond mining on the African continent. PAC presented the report at the October 2004, KP meeting in Ottawa. The report was a call for action to states as well as the industry: "Partnership Africa Canada and Global Witness welcome comments and suggestions, and look forward to working with the governments of countries where alluvial diamonds are mined, with Kimberley Process stakeholders, development organizations and civil society in seeking ways to bring meaningful and positive change to this important development challenge" (PAC/Global Witness 2004: 31). This was indeed what happened. Smillie describes what occurred with the "Rich Man, Poor Man" presentation at the KP plenary in Ottawa:

We didn't get very much time and we were put on the agenda for an hour before lunch and you know by the time we finished making the presentation there was hardly any time for comments from the Plenary. Sierra Leone, I think the DRC and a couple of others were quite positive. They said yes, this is a problem. But then we broke for lunch and that was more or less the end of it. But De Beers said at lunch, they said, 'we'd like to have lunch and talk to you about this'. They said, 'this is a problem. We recognize it. We'd like to work with you on

this. Would you be amenable to having a joint conference, Global Witness, PAC and De Beers, to bring governments and industry and NGO's together to see where we might go with this thing?' We thought long and hard about it, but to make a long story short, in January 2005 we had a joint meeting in London (Ian Smillie, interview, July 6, 2006).

The first strategic meeting was called by Global Witness, PAC, and De Beers in January 2005, in London. This meeting was chaired by former US Assistant Secretary of State for Africa Walter Kansteiner, and included representatives from states, the EC, the UN, DfID (the British Foreign Aid Agency), USAID, the World Bank, and industry and NGOs.

I think we had about 50 or 55 people came to it. We had good representation from industry. In fact a lot of industry people complained that they hadn't been invited. But of course, a lot of them were concerned that De Beers was up to something, you know, they wanted to know what this was. 'Is this another sort of De Beers way of getting control over something?' And the response was, I guess, good enough, that we felt encouraged to go on with it. We did a lot of talking during 2005. We met. We discovered that the World Bank had a thing called the Communities and Small-Scale Mining Initiative, a small secretariat in Washington. They were having their annual meeting in June last year and we went. We all went to that. We expanded the membership to include Rapaport.² Rapaport said he wanted to be part of it (Ian Smillie, interview, July 6, 2006).

A second meeting took place in Washington, DC, in June, in conjunction with a Communities and Small Scale Mining (CASM) meeting at the World Bank. Both DDII meetings were devoted to defining the goals and scope of the initiative. The DDII was to address the political, social and economic challenges associated with artisanal diamond mining in Africa, attempting to bring this large informal sector into the formalized economy.³ While some industry players remained skeptical, De Beers and Martin Rapaport had already been involved in the Peace Diamond Initiative in Sierra Leone. They had also been important in bringing the conflict diamond issue to the industry's attention in early 2000, when the conflict diamonds campaign got underway. De Beers' motives for its proactive involvement on development diamonds were viewed with suspicion by some NGOs and by some in the industry. Smillie responds to those suspicions as follows:

2 Martin Rapaport is a major U.S. diamond entrepreneur and founder of the Rapaport Diamond Report, a pricing list for polished diamonds.

3 See the "Background Paper on Macroeconomic Issues", by Chaim Even-Zohar, and "Diamond Development Initiative: Background Paper On Micro Development Issues", by Ian Smillie, both published in August 2005, preceding the Accra meeting.

What is De Beers doing in this? What are they doing? And I always say they're doing it because they love little children in Africa. What do you think they're doing? Why do you think they're in it? I mean this is clearly an issue and they are leaders in the diamond industry and they don't want to find the wave crashing on their heads. Better to anticipate this one and get with the program. Maybe they want to control it, in a sense of keeping it to a minimum, but so far we haven't seen that. You know I mean they have been quite enthusiastic about it. So I mean we don't feel any resistance or pressure to move this way or that way from them. I mean clearly they've got corporate interest. Clearly you know they're in it because they want to make sure this doesn't turn into a big anti-industry campaign again. Instead of waiting for the campaign, let's do something about it right away (Ian Smillie, interview, July 6, 2006).

Initiators of the DDII (De Beers, PAC, Global Witness, the Rapaport Group, and Jeffrey Davidson, representing the World Bank's Communities and Small Scale Mining Secretariat⁴) were joined by the Foundation for Environmental Sustainability and Security and the International Diamond Manufacturer's Association, and "the DDI has been endorsed by the governments of Sierra Leone, Guinea, the DRC, Namibia and others, and has received start-up project funding from Canada's Department of Foreign Affairs" (PAC Website, *DDII*, n.d.). Overall, alluvial diamond mining countries expressed great interest in the initiative, while other diamond producers were less engaged in the matter. "In terms of government's involvement, the governments that are of course more interested in DDII are the governments that are concerned like Sierra Leone and the Congo, and there is a lot of enthusiasm there. The Central African Republic, you know Guinea. Now, the countries that can show leadership like they did in Kimberley Process, South Africa, Botswana and Namibia, they're kind of keeping themselves away from the initiative, at the moment, at least" (Dorothee Ngolo Gizenga, interview, July 6, 2006). CASM's experience in dealing with artisanal mining suggested that getting donors involved in such initiatives was difficult.

One of the things we heard at the CASM meeting in June last year, they've been working mainly on gold and colored gemstones and a number of other things. Generally there are about 35 million artisanal miners in the world and all have the same kind of problems ... They [CASM] hadn't done very much on diamonds. In fact with Kimberley and some of our discussions we're way ahead of other artisanal mining groups, so that's why they were interested in us, but they made the point that getting donors interested in artisanal mining is a big problem generally. It isn't just diamonds. It's, extractive industries are regarded by some donors as an area that's too complicated for them to get into. They don't like mining generally and artisanal mining's particularly problematic (Ian Smillie, interview, July 6, 2006).

4 Israeli Diamond journalist Chaim Even-Zohar serves as professional consultant.

Nonetheless, participation in the inaugural DDII meeting held in Accra (Ghana) on October 27–30 was very good. It was limited to 80 representatives from states, industry and civil society. The meeting was financed by registration fees from industry and northern states (\$400 each), \$30,000 from the World Bank, and \$6000 each from Rapaport, De Beers, Global Witness, and PAC (Smillie and Ngolo Gizenga, interview, July 6, 2006). Registration for NGOs and Southern states was free. At the Accra meeting, the DDII's goals were further developed.

Goals of the DDII

The DDII seeks to integrate artisanal diamond mining initiatives already underway, such as the above mentioned projects – the Peace Diamond Alliance, CASM, Campaign for Just Mining, etc. “The focus of the DDI will be the creation of a multilateral partnership of governments, NGOs and industry that will allow interested parties to pool their resources, experience and knowledge, and to integrate various initiatives that are being developed in this field” (DDII, October 2005: 2). The DDII seeks not only to put artisanal diamond mining on the agenda of NGOs and donors working on mining issues (such as the World Bank's Communities and Small Scale Mining project) but also to create an encompassing approach that is not country- or initiative-specific. It attempts to translate these initiatives into a more cohesive and global frame in which diamonds are a development issue, and to get the big international development organizations aboard. The DDII's ambitions are high: “The DDI has huge potential ... If it works, if it gets the kind of support it needs, if we can excite the world's development agencies – USAID, DFID, CIDA and others – this could be one of the biggest development initiatives in Africa” (Smillie, quoted in *Other Facets*, October 2006: 1).

In essence, the goal is making the world's 13 million artisanal diamond miners, most of whom live in total poverty and face multiple health and peace and security challenges, a new focus in development. Artisanal diamond miners tie the conflict and development frames together. The DDII, by consolidating local initiatives, forms a bridge between the conflict frame and the development frame.

Initially, PAC and Global Witness did not explicitly assign any staff, not even part-time, to the initiative. “We don't have anybody working on this full time. Everybody has got day jobs, though you know we have conference calls. We talk about things. We are working on things. We've widened the group a bit. There's others involved. But you know we're all busy and we don't have, you know we don't have half a person to devote to this and nobody else does either so there's a real chicken and egg problem” (Ian Smillie, interview July 6, 2006). The lack of resources is partially explained by the fact that the KP continues to exhaust NGOs capacities. Furthermore, it is more difficult to engage other NGOs and donors on the development diamond topic than on conflict diamonds. Dorothee Ngolo Gizenga from PAC explains:

The biggest difficulty with DDI, and it was shown even during the conference and the first meeting we had in January 2005, is mobilizing the NGO community. For as much as we were successful in mobilizing the NGO community, the world NGO community around the issue of conflict diamonds, we're having difficulties to really engage and mobilize the NGO community around the Diamond Development Initiative. Is it less sexy than the conflict? Probably. It's also the issue of mistrust about De Beers' involvement with us, Partnership Africa Canada. And you know, so not everybody wants to be in the same working group with De Beers and so on. De Beers is having problems with the industry. They are also suspected, 'Oh, why is De Beers in this? What's in it for them? They must be there for a reason'. So that is a bit of a difficulty. But also the donor community, and if you look at the Canadian International Development Agency, because of their, I would say their priorities. Their priority structuring in terms of issues and priority countries, DDI being an initiative that covers several countries, none of them priority countries, you know? We don't fit into their agenda, yet it is a development, a large development issue, but we don't fit into their agenda. So it falls off the table at a time where we most need support. I was just talking about the challenges, I talked about mobilization of NGOs; we still haven't been very good at that, the international NGO community (Dorothee Ngolo Gizenga, interview, July 6, 2006).

Ngolo Gizenga mentions several hindering factors. First, it is more difficult to garner support from other NGOs because development diamonds do not lend themselves to the same splashy, "sexy" consumer campaign as conflict diamonds. Second, there was suspicion about working on an initiative jointly with the industry and states. Specifically, PAC was accused of getting into bed with De Beers.

There was an article in the Los Angeles newspaper about De Beers getting involved in this initiative. They [NGOs] circulated all of that and we were bombarded with questions from them. And you know, so we explained ourselves and we said, 'but the Kimberley Process is such a success being a tripartite system. Why can't we try to deal with the development issue on the same level, having had the success of Kimberley?' So we explained ourselves over and over again and then the guy of [name of NGO] actually, you know, said, 'but you know they've done a great work with Kimberley Process. Why can't we trust them that they're gonna take the same players from the KP?' And then so this thing dies a little and then [name of NGO] surprised us by doubling, no, actually multiplying by four the amount they had given us before (Dorothee Ngolo Gizenga, interview, July 6, 2006).

Thus, the reputation established during the KP, showing that tripartite structures can work and meet the expectations of NGOs, helped to mitigate the negative impact of those headlines. However, not all NGOs are comfortable with and willing to join such tripartite efforts. NIZA, the Dutch organization which was

active in the Fatal Transactions awareness-raising activities on conflict diamonds, preferred to keep its distance: “Interesting, we don’t want to be a member. We do like to keep a finger on it, be involved. But we are not there to help industry make money. We will not put a stamp on it, ‘NIZA says go ahead’” (Judith Sargentini, interview, July 18, 2005).

The risks associated with close collaboration between NGOs and the industry applied to industry as well. Andrew Bone from De Beers comments, “To my knowledge no private sector company has combined with the NGO community like this to address the situation. And of course it’s a risk on both sides and the NGOs, they run the risk of being accused of being too close to business. And vice versa” (Andrew Bone, interview, July 7, 2005). Not everyone in the industry is enthusiastic about being associated with and collaborating with NGOs.

A major risk for the legitimacy of the DDII was that the industry would provide disproportionate funding. But NGOs seemed well aware of that:

There is probably going to be a problem in raising funds for this in some ways. And we want to be careful with this that does not sort of get out of hand. I mean a lot of people say, especially in aid agencies, ‘Well, the diamond industry, surely they can fund this. There’s millions and millions of dollars in diamonds. Why does this have to be an aid thing?’ The thing is we don’t want the diamond industry to take this over. It has to be a development effort. I mean they, we would be glad to have them put money into it but not, not to overwhelm it (Ian Smillie, interview, July 6, 2006).

Several strategies were discussed to encourage further support from international donors (states and nongovernmental actors). For instance, expanding the frame to include child labor would encourage more development organizations (IGOs and NGOs) to come aboard and help make the otherwise not so appealing mining theme accessible to them.

I mean if we now go into the child labor issue it’s possible to mobilize people around child labor. You know for that project to take off there are quite a few organizations that look at the human rights issues of children, look at the children’s plight and so on and so and so. And there is a way to go around the mining and the fact that we are doing it with De Beers somehow.

...

Now other organizations, like Save the Children for instance, I think we can bring them on board. Once we pull the child labor project in they will be brought back on board (Dorothee Ngolo Gizenga, interview, July 6, 2006).

Furthermore, beyond the specific focus on development diamonds, broader initiatives to combat the so called resource curse are important developments.

Most notably is the Extractive Industries Transparency Initiative (EITI), which sets global standards for managing revenues from the extractive sectors of a country. Linkages between the DDII, the EITI, and other global initiatives continue to grow and unfold. In fact, the EITI grew out of activities surrounding the conflict diamond campaign and Global Witness activities on oil.⁵ Initiatives like the EITI are particularly relevant to create transparency for oil revenues, which has been more difficult to address via a certification mechanism, yet remains an important conflict fueling resource (Le Billon 2007). The key problems with the EITI are that it is voluntary and as such bound to exclude the most corrupt countries and that it is not specifically designed to address conflict resources and therefore will likely be ineffective to resolve violence when it occurs. Most significantly the EITI like the DDII is designed to address the underlying problems of conflict resources, essentially serving as prevention rather than intervention.

DDII, Tripartism, and the KP

The DDII, like the KP, was from the very beginning a tripartite initiative involving states, NGOs, and industry: “The focus of the DDII will be the creation of a multilateral partnership of governments, NGOs and industry that will allow interested parties to pool their resources, experience and knowledge” (DDII 2005: 2). Two factors encouraged the DDII to rely on tripartite cooperation. First, both local development initiatives and global KP certification served as important models or templates of tripartite collaboration. The DDII’s structure was influenced on the one hand by local initiatives, which developed through the multi-stakeholder model that is prominent in current development and aid circles, and the KP, which developed as the first global tripartite agreement of its kind. These multi-actor models not only dominate the development sector, they also are increasingly important in industry self regulation efforts and corporate codes of conduct, two contexts in which the DDII would eventually work.

Second, the KP itself served as a successful precedent that had generated close relationships and trust. The DDII clearly built on relationships formed in the KP, especially those between the industry and NGOs. “We [PAC and Global Witness] suggested that there needed to be a coalition of like-minded governments and companies and NGOs to take a longer harder look at this, the way that the Kimberley Process did” (Ian Smillie, interview, July 6, 2006). Andrew Bone from De Beers elaborates on the links established between his company and NGO organizations over the course of the KP, paving the way for collaboration in the DDII: “I think

5 To date, about 30 countries are implementing the EITI, with only one country – Azerbaijan – fully EITI compliant. Compliance requires extensive implementation of EITI rules on disclosure of revenues, information dissemination, multi-stakeholder engagement, and monitoring and evaluation practices. Applicability of the KP model to the EITI was described in detail in a policy report commissioned by Revenue Watch and written by Christine Scheiber (2006).

there was a level of understanding and cooperation between us and the likes of Global Witness and Partnership Africa Canada. We had established relationships whereby we could instinctively move forward together, with a common belief that solutions could be found through this kind of cooperation” (Andrew Bone, interview, July 7, 2005). Moreover, personal relationships mattered. The same individuals involved in the DDII have sat through countless hours of negotiations in the KP and have also socialized informally at frequent meetings around the world.

While particular industry players are involved in the DDII, most notably De Beers and the Rapaport group, the World Diamond Council (WDC, the industry NGO created to deal with the conflict diamonds issue) remained uninvolved. While formally welcoming the initiative, the WDC kept its distance, saying that it was created to address only the conflict diamond issue. The CEO of the WDC had the following to say about development diamonds and the DDII:

It is an issue that we will discuss and because it is an issue that concerns every human being so I think it should be discussed every place possible and any time there is a diamond get-together I think we would be negligent, we would be remiss, if we don't discuss those things. I think this is something that should be discussed all the time and all efforts should be made in order to do more in Africa because when I visited there during the Kimberly Process preparation throughout the past three, four or five years, I saw in my own eyes the poverty there. Some of those countries have tremendous incomes from oil, from diamonds, from other natural resources and yet their inhabitants live with much poverty so something is screwed up with the system there and they should use their resources more thoughtfully. And if we in the industry are all responsible for people, NGOs, industry and other good governments and well-intending people can come together and do something about it and if they don't they are negligent. So I think it is an excellent thing what they are doing and I am very supportive of it and the reason that the World Diamond Council didn't take it head on is because I didn't want to initially to confuse issues and take away what we are doing. But me as a leader of the industry are very, very supportive of what they are doing and eventually I think that after we finish with this process, you know, that we will have everything in place, that The World Diamond Council can play a role in this too. But right now I am focused on what we have at hand and I want us to complete this mission that we have and let other important industry bodies come together to try and do whatever they can and then we will augment it sometime in the future. But I am very, very happy about this initiative and I think it is very wise, bright and decent (Izhakoff, interview, 2005).

The WDC thus was intent on keeping its focus on the KP. Its distance from the DDII can possibly be explained by the fact that the DDII was an initiative of De Beers, which is both loved and hated for its dominant position in the industry. Also, the DDII leaves out industry members that have little to do with artisanal mining

(i.e. industries involved in kimberlite extraction, many traders and retailers) or were already reluctant partners in the KP/WDC.

Despite close connections between the DDII and the KP, there was never any intention of incorporating the DDII within the KP. States, the industry, and the NGOs agreed that this would have been counter-productive. No one wanted to jeopardize what had so far been achieved in the KP by overburdening it. In addition, the KP would have prevented the DDII from engaging state donor agencies who could help fund the initiative. As explained in the chapter on implementation, the KP is minimally funded, and state officials in the KP are not connected to the state agencies most likely to be potential donors; instead, they represent trade departments or mine/extraction ministries. Third, most KP participants are not involved in the DDII. While any diamond trading state must participate in the KPCS to engage in international diamond transactions, most states take no interest in and are skeptical about being asked to engage on issues of diamonds and development.

NGOs saw the DDII and KPCS connection as follows: “The KPCS has helped to consolidate the peace in several African countries, but it is a *regulatory* system; it is not a tool for development. In the rush to congratulation, we are in danger of forgetting some of those who suffered most in the diamond wars – the diggers, and their communities” (PAC website, *DDII*, n.d.). The DDII reminded KPCS participants why the certification was initially launched. Important links between the KP and the DDII existed and were nurtured. The KP provided the networks, reputations and know-how, especially for tripartite interaction, which were applied in the DDII.

The KP also lent the DDII legitimacy by commending its activities, which is itself a sign of the global esteem the KP had achieved by 2005. On several occasions the DDII was given the opportunity to make presentations at formal KP meetings. Ian Smillie presented the DDII to the Moscow plenary in November, 2005. The final communiqué of the KP Moscow plenary concluded, “Liaison between the KP and the DDI was encouraged in order to optimize synergies” (Kimberley Process, Moscow, 2005). The DDII thus kept development issues on the agenda of the KP, by closely linking development to conflict diamonds and showing that the conflict diamonds problem could not be solved without also addressing development issues related to artisanal miners.

Most importantly, the DDII addressed one of the KP’s key weaknesses: the lack of internal controls in alluvial diamond states. The KP in essence does not capture much alluvial diamond mining; it is unable to assess with confidence which mine or mining area an alluvial diamond comes from. Concerned about this weakness, the KP established an ad-hoc working group on artisanal mining. “The Diamond Development Initiative emerges from a recognition that the underlying problems of Africa’s alluvial diamond operations and its estimated one million artisanal miners lie beyond the KPCS, and have not yet been addressed” (DDII 2005: 5). Thus, for the KP the DDII is an important means of tackling an issue that threatens the effectiveness and legitimacy of the KP. In broader terms, the DDII

is important because the KP alone cannot ensure peace in the region. "The peace that the KPCS has helped to bring about is fragile ... and it is supported by large United Nations peacekeeping operations in Liberia, Côte d'Ivoire and the Congo. These three peacekeeping operations have a combined troop strength of 38,000, with annual budgets to the end of June this year totaling \$2.3 billion" (Smillie, quoted in *Other Facets*, October 2006: 1). Current arrangements are unsustainable in the long run, and without the UN peace forces the Kimberley Process cannot effectively ensure that diamonds will not fuel renewed conflicts. This may explain why the DDII received much attention and was positively endorsed by the KP. Furthermore, what facilitated a sound relationship between the KP and the DDII was that the DDII's goals were defined as complementary and supportive of the KP. The DDII did not undermine the KP for its ineffectiveness with regard to development, which would have delegitimized the process as a whole.

While there is no intention of merging the DDII and the KP on the part of NGOs and other DDII members, some KP members remain skeptical:

This is definitely where the NGOs and the industry are not on the same footing. Some people want to glide the Diamond Development Initiative, which is a fantastically positive initiative that has nothing to do with the Kimberly Process, they want to glide that into the Kimberly Process itself. I think that's a wrong attitude. I think the DDI, Diamond Development Initiative, is a strong concept in its own accounts, and the concept is very much different. And in the case of the Kimberly Process we are talking about stopping conflict diamonds from happening, and stopping conflicts in especially diamond producing countries in Africa. We are not talking about free trade, and fair trade. And when you talk about DDI you're talking especially about the fair trade issue. And let's not be forgetting one little tiny detail. We got away with the WTO waiver on the free trade issue, because in fact we are blocking free trade. I am not so sure that WTO would be willing to extend its waiver to cover also issues like fair trade and DDI. So I think before people would like to marry one with the other one they would really have to be very carefully studying the situation, and making sure that they are not really jeopardizing the Kimberly Process. And I think if you would add a development, well you could add development, you can add money laundering schemes to that as well. But then of course what you are going to do is you are de facto overloading the scheme, with a fat chance that by doing that the scheme itself will not be very functional any more. And I don't really fancy that. (Mark Van Bockstael, interview, September 27, 2005).

Over time these fears have subsided; NGOs have not pressed for more DDII "air time" at KP meetings, nor have they pushed for development diamonds to be put on the KP's agenda in other ways.

In conclusion, the KP served as an important starting point for the DDII but the DDII was built as a separate organizational effort. While relationships developed in the KP were important, not all industry players involved in the KP became

involved in the DDII. For instance, the WDC remained focused on the KP while De Beers and Rapaport helped initiate the DDII. States that were crucial in setting up the KP (South Africa, Botswana, Namibia) were not closely involved in the DDII, while alluvial diamond-producing nations and several donor countries became active in the DDII. Canada, Britain, and the United States were involved in both, though for Britain and the United States different state agencies dealt with the KP and development diamond issues (the US Trade Department and the EC in the KP, USAID and DfID in DDII), while for Canada the Department of Foreign Affairs was the central agency for both initiatives. In 2008, funding for the DDII has been provided by the government of Sweden, Tiffany & Co. Foundation, PAC, and the JCK Industry Fund, totaling a total of \$287,580 for their annual budget (DDII Annual Report 2008: 9).

DDII's first operational year, 2008, has made important progress. The DDII has produced several "Standards and Guidelines" materials offering various stakeholders important information on artisanal mining in specific countries. The DDII engaged in a pilot study on Guyana's registration system of alluvial miners and its internal diamond production tracking mechanisms. This study now serves workshops and training session in Africa to implement similar systems there (DDII Annual Report 2008).

The Moscow Plenary and Côte d'Ivoire

The November 2005, Moscow KP meeting was described by Smillie as the first routine plenary. As in previous meetings, NGOs were given the floor. Global Witness gave a presentation on a report published on the date of the occasion, "Making it Work: Why the Kimberley Process Must Do More to Stop the Trade in Conflict Diamonds" (November 2005). The report also encouraged the KP to work with other initiatives like the DDII and the Extractive Industries Transparency Initiative (EITI). More importantly, the report addressed problems with controls in the cutting and polishing sector, with a particular focus on Armenia, a KP member with large diamond cutting centers, and highlighted problems of weak internal control systems in many countries, i.e., tracking diamonds from mine to point of export. The report showed particular concern for the fact that conflict diamonds from Côte d'Ivoire were finding their way into the KP.

Côte d'Ivoire had been a KP member since the beginning. However, escalating violence and control of the northern, diamond-rich area of the country by rebel forces (Forces Nouvelles) became increasingly troubling in 2004. In August, 2004, PAC and Global Witness recommended that Côte d'Ivoire be temporarily suspended from the list of KP participants. Instead, the Côte d'Ivoire government banned official diamond exports in November, 2004. However, the United Nations Panel of Experts on Côte d'Ivoire (November 2005) and Global Witness investigations found evidence that the Forces Nouvelles derived substantial funding from the trade in diamonds from fields under their control. Once again, it appeared that

conflict diamonds were on the international market. The Global Witness report showed that these diamonds were smuggled into Mali (not a KP member), and into Sierra Leone and Guinea, both KP members. The UN Panel of Experts' report also implicated Ghana in trading smuggled Ivorian diamonds. Global Witness called for UN sanctions on diamond exports from the country and asked the KP to take immediate action to ensure that Côte d'Ivoirean diamonds, and conflict diamonds in general, did not enter the system.

However, the KP plenary in Moscow did not order review missions to investigate suspicions of KPCS noncompliance, as had occurred in the Republic of Congo, to any of the countries. Subsequently, the UNSC placed sanctions on diamonds from Côte d'Ivoire in December (UNSC 1643). The very mechanism, UN sanctions, whose failure to stop the trade in conflict diamonds from Angola, Sierra Leone, and Liberia, had sparked conflict diamonds participants to take the matter outside the UN system, now was used as a political tool within the KP. UN sanctions allowed participants like Côte d'Ivoire to remain in the KPCS, while having their exports regulated by the UN. The UN regulation of diamond exports also offered more credibility and higher effectiveness than unilateral, volunteered halts in exports.⁶ Also, UN sanctions on Côte d'Ivoire may have allowed for more effective KP responses in Ghana and Sierra Leone since the latter countries could be accused of smuggling not only uncertified but also UN-sanctioned diamonds.

The fact that UN sanctions were invoked to complement the KP reveals that the KP did not have sufficient capacity and political will to deal with irregularities itself. Thus far, the KP had relied on reports from the UN and NGOs to detect irregularities or violations involving conflict diamonds. Concerns about Côte d'Ivoire and Ghana continued in 2006 and were further addressed in that year's plenary in Botswana (discussed below).⁷

Frantic Industry: Hollywood Makes the World Diamond Council Nervous

The fourth annual WDC meeting convened in February, 2006, in Sicily. For once, it was not the NGOs that put the industry on high alert or made it worry about negative publicity. The meeting was heavily preoccupied with a movie to be released in late 2006 entitled *Blood Diamond*, starring Leonardo DiCaprio, Djimon Hounsou, and Jennifer Connelly. The movie takes place at the height of Sierra Leone's civil war in 1999. It tells the story of a fisherman in search of his son, who was forced to join rebel forces as a boy soldier, and a former mercenary

6 Of course, in the case of Brazil (below), which voluntarily suspended its diamond exports from February–September 2005, UN sanctions were not a viable option since these diamonds, while violating KP standards, did not spur civil war or conflict.

7 Côte d'Ivoire, as of November 2009, is still under UN sanctions, remaining a KP participant without issuing KP certificates. A KP review mission was sent to Ghana in March 2007.

and diamond smuggler, both of whom are in pursuit of a large pink diamond hidden away by the fisherman. Eli Izhakoff's speech centered on the potential negative consequences of this movie. On the second day of the meeting, Kago G. Moshashane, then KP chairman, and Izhakoff wrote a letter to the producer of *Blood Diamond*, Edward Zwick. They recommended that the movie add an update on post-conflict Sierra Leone and the progress of the KP through a written statement at the end of the movie, to make the viewer aware that the movie was set in the past. This letter was just the beginning of the WDC's intense efforts to counter the movie's message in the months to come: "The World Diamond Council (W.D.C.) hired crisis PR firm Sitrick & Co. to coordinate a reported \$15 million campaign to counter the movie's message. Full-page newspaper advertisements detailed the measures diamond producers have taken to end the flow of conflict diamonds. An industry website, diamondfacts.org, encouraged retailers to educate themselves about the issue, and Zwick was pressured to tout the complete success of the Kimberley Process ... in the script. He declined" (*Time*, November 20, 2006, online, n.p.). These efforts matched or exceeded the public relations efforts conducted in the early conflict diamond campaign stages.

Blood Diamond was not yet perceived by NGOs as an opportunity for renewed public awareness campaigning, however. Rather, they complained that the industry was wasting energy and resources on damage control and image polishing, which only distracted from the real issues within the KP that needed resolving. "It is not the DiCaprio film that should be concerning the diamond industry and the governments that benefit from diamonds, however, it is the weak controls they have put in place to deal with the reality of conflict diamonds" (PAC website, *Summary of Killing Kimberley*, n.d.). Thus, NGOs wanted to redirect the industry away from the movie and toward vigorous efforts to get states to enforce industry regulations and internal controls.

The greatest focus of NGO criticism in early 2006 was not the industry but particular KP participants: "The diamond industry is not the villain of Kimberley weaknesses ... If diamonds are to be regulated, the regulation must derive from national legislation, and it must be enforced by national states. That is *why* the KPCS is based on national legislation. Only governments have the force of law to validate regulations ... The weaknesses of the Kimberley Process thus have little to do with industry. They can be laid squarely at the feet of governments that have in the past argued against provisions that would make the KPCS a system that can respond rapidly to evolving situations, one that is nimble, robust and effective" (PAC Website, *Blood Diamond/Industry*, n.d.). A case in point is Brazil, who once more received attention concerning its diamond exports.

Brazil Yet Again

Brazil became a KP member in August 2003. PAC reported in May 2005 ("The Failure of Good Intentions") on extensive irregularities in Brazil's administrative

office in charge of implementing KPCS regulations. This report caused no changes in Brazilian diamond trading or Brazil's status in the KP. The Brazilian KP representative vehemently protested the report at the 2005 Moscow intersessional and plenary meetings, offering presentations aimed at discrediting the PAC report (which I described in the previous chapter). However, an investigation by the Brazilian federal prosecutor's office resulted in "Operation Carbon" on February 10, 2006. Over 300 police officers executed 34 search warrants and 10 arrest warrants, including one against the official who previously was in charge of issuing KP certificates (PAC March 2006). Meanwhile, PAC continued its investigations of Brazil and published a further report in March 2006 ("Fugitives and Phantoms: The Diamond Exporters of Brazil"). The report suggested that half of Brazil's KP certificates were false, "the work of fraudsters, fugitives and phantoms" (PAC, March 2006: 2). The report showed that names on certificates belonged to fictitious or deceased persons.

After "Operation Carbon" Brazil suspended all shipments of rough diamonds between February and September 2006. A KP review visit (the voluntary KP monitoring mechanisms, as opposed to the involuntary review mission) was sent to Brazil in April 2006. However, PAC voiced concern that a routine KP review visit would have most likely not uncovered the problems that it identified in the 2005 report. Moreover, "It is also fair to ask whether the Review Visit that was planned for April 2006, before the current scandal erupted, would have investigated the PAC allegations" (PAC, March 2006: 17). Thus, without the scandal's escalation and Brazil's own investigations and eventual crackdown on diamond traders, PAC remained skeptical that a review visit would have seriously followed up on NGO allegations. The April KP review visit's report recommended that KP review visits more rigorously test participants' internal control systems. It noted weaknesses and problems but did not take further action since Brazil had already voluntarily suspended its diamond exports and started to address the anomalies.

Perhaps more significant than the KP response to Brazilian noncompliance, revealed by PAC and the Brazilian attorney general's office, was the subsequent reaction of the Brazilian KP delegation. At the Botswana intersessional meeting in June 2006, a Brazilian KP representative apologized to PAC for previously having attempted to discredit their findings. This greatly surprised the NGOs. Smillie recalls the meeting:

Now oddly, at this meeting in Botswana, in the middle of something else entirely the Brazilian delegate put up his hand and said he wanted to say something and he spoke for about 10 minutes and he said that their system was out of control. He talked about all the arrests that had been made. They suspended all diamond exports in February and they have not resumed yet. And he said that PAC had been correct in what it said and he apologized for what he had said. He is the one who presented that report in Moscow in November. He apologized for it and he said that he hoped that we would come to Brazil and I think he said help them. I think he said help. I'm not sure. But anyway, wanted us to come

to Brazil and discuss the whole thing with them and work together on how to solve these problems. So it was an amazing, an amazing change and an amazing sort of admission for the Kimberley Process because governments never speak like that. They never say we were wrong. They never give credit to NGOs; I mean they do sometimes give us you know small strokes, but often with a great whack on the face at the same time so this was just stunning, quite stunning (Ian Smillie, interview, July 5, 2006).

The developments in Brazil once more reinforced PAC's credibility, its careful investigative reporting, and overall, the important role of NGOs as watchdogs: "You know it doesn't hurt to score a few points occasionally like the Brazil thing was, you know that was good" (Ian Smillie, interview, July 5, 2006). A month later the Brazil study was followed by "Triple Jeopardy – Triplicate Forms and Triple Borders: Controlling Diamond Exports from Guyana" (PAC, April 2006). It outlined diamond smuggling between Brazil, Venezuela and Guyana, all KP participants, completely outside of KPCS controls, and it led to a KP review mission to Venezuela in 2007. This was the third report of PAC on the region and suggested that the diamond topic trumped its organizational focus of development in Africa.

Importantly, Brazil and Côte d'Ivoire remained full participants in the KP. Brazil imposed a temporary export ban on its diamond industry, while Côte d'Ivoire first imposed an export ban and subsequently was put under UN sanctions.

It is also worth noting that diverse sources uncovered irregularities and KP non-compliance. In the case of the Republic of Congo it was a regular KP mechanism, statistical data submissions that triggered its expulsion after a review mission. In the case of Brazil, NGO reporting triggered domestic responses which in turn led to a halt in exports. In Côte d'Ivoire, both a UN expert panel and NGO reports resulted in UN sanctions. While the mechanisms are diverse and responses varies, KP participation and KPCS minimal requirements were used as benchmarks by which to identify unacceptable behavior.

The Three-Year Review

At the KP intersessional meeting in Botswana in June 2006, praise was given to rapid progress in the peer review system, the voluntary monitoring mechanism of the KP. Review visits had been conducted in more than half of the countries and only a few had not yet volunteered for a visit. However, concerns arose about the transparency of and speed with which the peer review results were published, concerns that continued to grow. In addition, if peer reviews were to be conducted every three years as initially envisioned, some countries would soon have to be inspected again. This raised serious capacity concerns, especially for the NGOs, who participated in all review visits. The issue of funding also invited comments in terms of unequal burden-sharing among KP participants. Some countries carried

much more responsibility than others in running the working groups, volunteering as chair, and participating in peer reviews.

Much attention was also devoted to the KP three-year self-review, which was scheduled to occur three years after initial KP implementation.⁸ The purpose of the self-review was to assess the overall effectiveness of the KPCS. Specifically, it would assess: how effective the scheme was in resolving disputes and addressing compliance issues; how open the scheme was to new applicants; how much industry self-regulation contributed to the implementation of the KPCS; the capacity of participants to implement the KPCS, particularly those with alluvial diamond mining, and how their needs could be addressed; and the effectiveness of the working methods of the KP, including plenary and working groups and committees (Abdul Omar presentation WDC 2006).

KP Administered Self-Review

A KP ad-hoc committee was formed in 2005 to conduct the three-year review. During 2005 it issued several drafts of a questionnaire and sought input from all KP participants and observers about the questions to include. In the beginning of 2006 the questionnaire was finalized and online responses were solicited from all participants, observers, relevant international organizations (UN, UNDP, WB, IMF), former KP Chairs, and all the KP working groups and committees. Soliciting input from other international organizations shows the interest the KP took in how it was perceived by other global actors. Global Witness assessed the review as “an extremely important moment for the Kimberley Process” (Global Witness address WDC 2006). The review was taken quite seriously by most participants and observers. Global Witness and PAC posted independent responses. In addition, Global Witness commissioned an independent review by a professional consultant. This review was endorsed by Global Witness, PAC, and Gremio ABC (an Angolan NGO). It suggests that the NGOs involved in the KP felt that an impartial assessment would be more reliable and legitimate, and that recommendations coming from an independent organization without any vested interests in the process would carry more weight. Overall, the self review provides strong evidence that the tripartite model was well established and taken for granted by all participants and observers. This is remarkable given that NGOs continued to publish highly critical reports on particular states and on the process in general. Also, the three-year review suggested a consensus on perceptions of weaknesses and strengths of the process, though there were clear disagreements as to whether to implement certain changes to improve the process.

Once all responses were posted, intense debate arose about how to use the self-review and whether it was proper to “open the document”, a term that refers to making changes to the initial document agreed upon in Interlaken in 2002. “A

8 Since implementation was delayed from January 2003 to June 2003, the deadline of the self-review coincided with the intersessional meeting in Botswana.

Three-Year Review carried out during 2006 was the first real opportunity to deal with the growing challenges and complexities of the KPCS in a comprehensive manner, but before the November 2006 KP plenary meeting in Botswana, an *ad hoc* committee dealing with the review had become deadlocked on critical issues relating to funding, professionalization and the transparency of the statistical data base, and the toughening of internal controls in participating countries where these were demonstrably weak” (PAC website, *Blood Diamond/KP*, n.d.). For the first time, a working group was paralyzed in attempting to achieve consensus: “Government members of the review committee vetoed almost every recommendation that might have tightened or professionalized the system. A draft report was watered down, sanitized and parts were even censored by virtue of the Kimberley Process’s concept of ‘consensus’” (PAC, November 2006: 2). The KP self-review marked in some ways the maturation of the KP, opening up room for evaluation, criticism, and input. Debates continued and reached new heights at the upcoming plenary meeting.

The Question of Liberia

The United Nations Security Council (UNSC) imposed a sanctions regime on Liberian diamonds with resolution 1521 in December 2003. On June 20, 2006, UNSC resolution 1689 extended sanctions on diamonds but did not renew the timber embargo. A UN Panel of Expert report (December 2005) stated that more should be done to lift diamond sanctions. Specifically, the chain of warranties required by the KP could not be ensured in the country. After the November 2005, election of Ellen Johnson Sirleaf and the arrest of Charles Taylor in March 2006, debates emerged about when and under what conditions those sanctions could be lifted. Sirleaf called on multiple occasions for a removal of diamond sanctions. However, concerns persisted and evidence corroborated the suspicion that natural resources were being plundered and ex-combatants, still under rebel command, were involved in natural resource extraction and trade. Therefore, removing sanctions without institutional safeguards that ensured that any future trading would benefit the people of Liberia was seen as destabilizing for the country and subregion. Global Witness cautioned in its report on Liberia (June 2006) that lifting sanctions too early was risky: “The new government is understandably keen to be rid of the stigma of UN sanctions, but Liberia presents a difficult case. Sanctions originally intended to curtail an oppressive and aggressive regime now effectively act as a protection to the new administration, enabling it to embark on essential reforms at a time when it does not possess the logistical capacity to control large swathes of its own territory. In this context, sanctions should not be seen as a punitive measure either within Liberia, or by the international community, but instead as a tool to assist the reconstruction and rehabilitation process” (Global Witness, June 2006: 6).

At the same time, the sanctions regime was also viewed as an impediment to economic growth and development: "The UN diamond and timber sanctions are hurting ordinary Liberians in no small way. UN and many international aid agencies agree that Liberians are living below the poverty line and that unemployment stands unofficially at 85–90% as the direct result of the shutting down of the diamond and timber industries in Liberia ... There was no doubt amongst proponents that the lifting of the sanctions would restore the more than 70,000 jobs said to have been lost through the shutting down of the forest industry and the 20,000 more lost through trade embargo on Liberian diamonds" (*The Analyst*, July 4, 2005, online, n.p.). But, while the cost of not having Liberia participate in the global diamond trade was substantial, the cost of potential conflict, instability, and a drop in credibility of the overall KP system was great too.

While the KP is an open and non-discriminatory entity, newcomers, including Liberia, must fulfill certain criteria to join the process. Participants must be able to meet the minimal requirements of the system, agree to trade rough diamonds only with other participants, and be willing to provide annual reports and respond to KP inquiries. However, the KP has incentives to make participation as broad as possible. "Obviously, a scheme like Kimberley rests to a much greater degree on assisting countries achieve compliance than on making them ineligible to participate. After all, expulsion is a drastic measure in an arrangement that is premised on collective participation. Excluding too many countries, or a few key ones, could topple the scheme. On the other hand, there must be some element of compulsion or the regime's credibility will be diminished" (Independent KP Review 2006: 14). Questions of admission and expulsion show the delicate balance involved in keeping a voluntary system credible while making it functional and non-discriminatory. "With entry often linked to UN embargoes, as is the current case with Liberia, a thorough, consistent entry procedure is needed to give the international community assurances that a country can meet KP requirements before sanctions are removed" (Independent KP Review 2006: 15). In 2006, while discussions emerged about application procedures, the case of Liberia did not create much debate or concern within the KP. That UN sanctions were still in place aided the KP in its decision to postpone Liberia's membership.

The close coordination between UN sanctions and Liberia's KP admission would become further reinforced by events in the spring of 2007. Liberia's admission process unfolded as follows: "Kimberley Process experts visited Liberia in 2005, 2006 and 2007 to advise Liberia on implementing effective controls on diamond production and trade designed to prevent conflict diamonds. The most recent team, led by the European Commission, found that Liberia had designed effective controls in line with Kimberley Process requirements, and reported its findings to the UN Security Council. Based on the progress made by Liberia, the Security Council unanimously adopted resolution 1753 (2007) lifting the diamond embargo, on 27 April" (Kimberley Process, press release, May 2007). On May 4, 2007, under EC's KP chairmanship, Liberia was officially admitted into the KPCS. The EU's Commissioner for Development and Humanitarian Aid remarked, "This

is a very important step for the development of Liberia, paving the way towards the country's reintegration into the international diamond community and marking the very end of any potential future financing of the war by blood diamonds. Moreover it is a formal recognition by the International Community that the efforts deployed by President Ellen Johnson-Sirleaf in the field of Governance are producing the expected results and I praise such efforts" (quoted in KP, press release, May 2007).

Preceding its admission, Liberia received bilateral funds to develop regulatory systems required by the KP. Also, Liberia's UNDP office initiated "Diamonds for Development" (D4D), which assisted Liberia in meeting the requirements of KP membership while addressing development issues in the artisanal mining sector, closely resembling the DDII. The D4D, though initiated by the UNDP, is a tripartite initiative. The first D4D conference on June 28–30, 2006, held in Monrovia, was organized by the UNDP, the government of Liberia, and International Alert, a local NGO. Clearly, on diamond development matters the tripartite model has become the norm.

The Industry's Public Awareness Counter-Campaign

The trial of Charles Taylor and KP intersessionals and plenary meetings generated sporadic news coverage but overall media exposure was minimal throughout the implementation stage. This changed slowly in the summer of 2006, culminating in a renewed media splash before the holiday season.

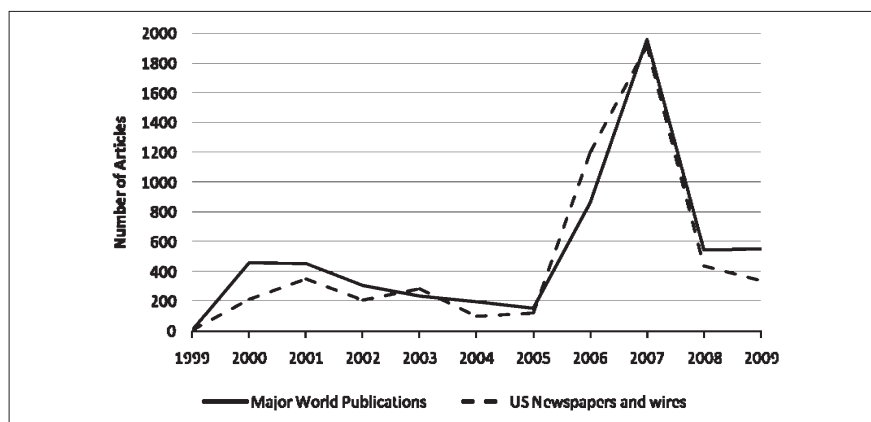


Figure 6.1 News coverage on conflict/blood diamonds (1999–2009)

Source: Lexis-Nexis searches for "conflict diamond* OR blood diamond*" in major world publications and US newspapers and wire services.

The movie *Blood Diamond* generated media coverage unmatched even by the early days of the campaign. Conflict diamonds made it onto the front page of *Newsweek* for the second time (the first came in the agenda-setting stage). Spurred by the movie, increasing coverage of conflict diamonds was likely reinforced by the industry's nervous reactions to it. The industry's intense reaction was surprising since previous movies using the image of dirty diamonds, most notably *James Bond Die Another Day* (2002) and *Lord of Wars* with Nicholas Cage (2005), did not spur the same response. To many in the industry, getting negative publicity at this point in time seemed unfair given the efforts the industry and others had made in the KP.

As part of the industry's "public education campaign", it launched full page news ads in ten major US and European newspapers including *The New York Times*, *USA Today*, *Los Angeles Times*, *The Times*, *International Herald Tribune* and *Financial Times*. In addition, the industry launched diamondfacts.org on September 5, a website that described what the industry and the KP were doing to crack down on conflict diamonds while playing up the many benefits of the diamond industry in Africa. Global Witness reacted skeptically to the website: "The diamond industry claims that the problems of conflict diamonds have been solved ... but they have only just now launched a full educational programme to encourage members of the trade to comply with the system of warranties supporting the Kimberley Process" (Susie Sanders, cited in *Other Facets*, October 2006: 3). As part of the industry's media campaign, Nicky Oppenheimer, chairman of De Beers, granted *Newsweek* a rare interview on October 8.

The WDC's response showed that the industry in 2006 was better organized, able to speak with one voice, and capable of quickly producing a counter-campaign that mobilized important industry spokespersons. The costly counter-campaign suggests that a Hollywood movie was feared as potentially more damaging than the public-awareness conflict diamond campaign of early 2000. It also showed that the industry had learned from its experience with the previous campaign.

In early fall, while some NGOs remained skeptical of the relevance of the movie and of industry reactions, other NGOs started to see it as an opportunity. "The advent of *The Blood Diamond* has galvanized the diamond and jewelry industry into a public relations blitz, including the creation and launch of a new website called Diamondfacts.org ... while some NGOs are reportedly gearing up to use the films as a platform to criticize industry shortcomings" (PAC website, n.d.). PAC had no plans at that time to join renewed campaign efforts involving the movie. For PAC and other NGOs the movie came too late: "Where were all these journalists and filmmakers when we needed them in 1998?" (Lansana Gberie, quoted in *Other Facets*, October 2006: 2). In addition, they felt that positive news about the progress made by the KP, and a focus on development issues (the DDII), would be more beneficial. "Sierra Leoneans are understandably concerned that portrayals which accentuate the negative and focus on the way things were will not help the country with reconstruction and new investment ... The resilience of Sierra Leoneans and our efforts to reconstruct could be hugely damaged if these

films don't show what is being done to rebuild lives and the economy. Sierra Leone deserves at least some credit and a little good news" (PAC, *Other Facets*, October 2006: 2). While NGOs remained skeptical of the industry's efforts at damage control, they did see some benefits from a nervous diamond industry in the upcoming Botswana plenary, which turned out more positively than expected.

Botswana Plenary 2006: Sluggish States Called to Action

NGOs increasingly grew impatient with a KP that on numerous critical occasions did not perform satisfactorily. The review visits, once hailed as a major success in making the KP and its participants accountable, were overshadowed by increasing delays in writing up review visit reports and follow-up procedures to ensure that recommendations were adopted. While the industry was frantically attempting to save its image once again, KP participants became increasingly sluggish in 2006, and it showed. The KP seemed to have fallen into stagnation or stalemate.

Côte d'Ivoire and Ghana

Serious concerns about the KP's effectiveness developed due to its inaction on cases that threatened the credibility of the entire system, most notably the delayed responses regarding Côte d'Ivoire, Ghana, and Brazil. For each of these cases, rather than KP investigations, NGO or UN reports established KPCS non-compliance. In addition, the KP's reactions to NGO and UN reports were at best slow and indecisive. In the case of Brazil, it was PAC reports that brought attention to violations of KP standards that had gone unnoticed by the KP. In the case of Côte d'Ivoire, the United Nations established a Panel of Experts that investigated diamond extraction and smuggling by the "Forces Nouvelles" rebel group. Côte d'Ivoire was a KP member from the beginning but escalating violence became increasingly a concern in 2004. The same month that the UN imposed sanctions on Ivorian diamonds (December 2005) the KP ordered an investigation into the smuggling of Ivorian diamonds into Ghana and Togo. However, almost a year later the report by the KP investigative committee had still not been written. In the meantime the UN Expert Group on Côte d'Ivoire investigated the matter, wrote and presented a report in October 2006. It found that "conflict diamonds from Côte d'Ivoire, possibly worth as much as \$23.5 million annually, has been exported from Ghana as Ghanaian diamonds. The report ... found that Ghana's diamond exports had almost doubled in volume and in average per carat value since 2000, while actual diamond mining in Ghana has declined" (PAC, *Other Facets*, October 2006: 1). After the UN report was issued, NGOs called upon the KP that Ghana either had to voluntarily suspend its exports or be suspended from the KP. The matter was discussed at the Botswana plenary in November 2006.

What can be concluded from these events is that the KPCS was dependent on continuing efforts by other organizations, particularly NGOs and the UN Panel

of Experts. While the KP had become *the* place to respond to problems regarding conflict diamonds, it was not the only place to establish where and when such problems occurred. Ironically, the UN, criticized early on for its slow pace, now was faster than KP internal procedures in identifying some of the irregularities in the diamond trade.

KP Under Stress

Delays in KP reports, such as the report from the review team in Ghana and Togo and reports from other voluntary review visits, had become a major obstacle to KP success. Smillie observed a suffering KP:

By mid 2006, however, the KPCS was showing signs of stress. The peer review system was highly dependent upon the regular participation of a few countries. The two NGO KP members, Partnership Africa Canada and Global Witness, bore the disproportionate expense of financing a civil society team member on each review. Not all reviews were of the same calibre, and the final reports on some of the most important, were delayed for months. The Statistics Working Group was likewise strained by its dependence on voluntary labour from group members, and by lengthy delays in data production. The voluntary chairmanship of each working group suggests a concept of rotation, but the amount of work involved and the cost associated with the chairmanship of the three most important working groups had resulted in stasis, with no change in three years, and none on the horizon. Worse, when confronted with overt examples of obvious and serious non-compliance in Brazil, Guyana, Ghana and elsewhere, the Kimberley Process seemed to have become paralyzed (PAC, November 2006: 8).

Right before the 2006 Botswana KP plenary, PAC published two KP-critical reports. In “Killing Kimberley? Conflict Diamonds and Paper Tigers”, PAC put forth a highly critical assessment of the KP and concluded that it could only become an effective regulatory system if it were “more vigilant, more pro-active, and more insistent that its standards be enforced in participating countries” (PAC, November 2006: 2). On October 30, the WDC, which had received the PAC report early amidst worries about a public awareness disaster with the scheduled release of *Blood Diamond*, issued a statement that indicated full agreement with the NGO report. Observers went to the plenary attempting to reinvigorate participants’ commitment to the process. In addition, PAC published its fourth report on Latin America, “The Lost World: Diamond Mining and Smuggling in Venezuela”. The report revealed massive smuggling from Venezuela to Brazil and Guyana and blamed the KP, which “failed to notice that a significant diamond producing country had simply vanished from the radar” (PAC website, *Summary of “Killing Kimberley”*, n.d.).

The Botswana plenary meeting on November 6–10 clearly had problems to resolve. Ian Smillie delivered the opening address (a further sign of the extent of tripartite and NGO status), which NGOs themselves described as gloomy.

Positive Outcome – Partially Due to the Movie

The meeting, to everybody's surprise, was quite effective in addressing all the major concerns NGOs had raised. NGOs declared in a press statement, "We have been pleasantly surprised at the willingness of participants to deal with the issues quickly, fairly and effectively". Ghana was given specific conditions to meet in order to continue its participation in the KP, with a concrete timeline and assistance to improve its internal controls. A review mission was scheduled for Venezuela. In addition, "All 43 recommendations in the Three Year Review were accepted, and the issues that had not attracted consensus in the ad hoc working group actually found consensus in plenary" (PAC, November 2006, revised version: 1). The plenary agreed to work on establishing formal procedures to address non-compliance and to address the problem of financing in the near future. It was further agreed that states would be required to show that they conducted effective and credible industry oversight, thereby considerably strengthening industry's self-regulatory system of warranties.

Several aspects of these outcomes are worth elaboration. First, the word "require" had not previously been used in the KP; it suggests a bolder stance on expectations regarding participants. Second, the WDC itself asked the KP to require industry regulation: "The World Diamond Council asked for effective and credible government oversight of the industry – perhaps a first in the annals of government-industry regulatory discourse" (PAC, November 2006, revised version: 1). Moreover, the diamond industry agreed at the Botswana plenary to publish annual industry-wide production and trade statistics. The WDC proactive stance at this meeting was explained by NGOs as a response to the launch of *Blood Diamond*: "'I think that the upcoming film must have had an impact on their moves to support calls to strengthen the Kimberley Process', says Susie Sanders, a campaigner with Global Witness, a diamond watchdog group. 'We had raised Ivory Coast as a serious issue last year, but the industry reacted to it quite late in the day [and little was resolved]. This year it was very different'" (*Time*, 2006, online, n.p.). But industry officials insisted that "The movie had no impact on the deliberations and outcome of the recent Kimberley Process Plenary" (Carson Glover, WDC spokesman, quoted in *Time*, 2006, online, n.p.).

The progress in Botswana was striking. "Given the pessimism that surrounded the run-up to this meeting, it was a remarkable set of outcomes. Everything NGOs had asked for – some items dating back more than two years – was agreed. From that point of view, it was probably the most successful Kimberley Process plenary in two or three years. It demonstrated that states and industry recognized the problems that had developed over the first three years of KPCS implementation, and were willing to deal with them" (PAC website, KP, n.d.).

With the Botswana plenary and events leading up to it, NGOs once more demonstrated that they would keep pushing the KP towards greater transparency and better implementation. No other organizations exerted this kind of pressure to move the KP forward. But the challenges ahead continue to be substantial and may require the KP to move toward a system with a permanently funded headquarters: "The real challenge that confronts the Kimberley Process and its constituent members is whether to move from the current voluntary and self-regulated arrangement to the establishment of an independent, permanently funded, policing, regulatory, advisory, policy-making, technical and auditing body with wide-ranging powers of international enforcement and compliance" (Kim Hughes from the South African Institute of International Affairs, *Business Day*, November 2006).

Renewed Public Awareness Campaign by NGOs

Blood Diamond was released in the United States on December 8, 2006. In addition, several documentaries were scheduled for release. "Blood on the Stone", by Insight News Television, gives a critical assessment of the KP. "Bling" by Kanye West, produced by Article 19 films and partially funded by the United Nations Development Program (UNDP), grew out of the 2006 Grammy Award-winning recording, "Diamonds from Sierra Leone". In addition, a two hour documentary on Sierra Leone was scheduled to be released by the History Channel. Also, *The Diamond Road*, a documentary by Kensington Productions of Toronto, was released in March 2007. This unprecedented interest in conflict diamonds, and Sierra Leone in particular, by documentary movie makers can be explained in large part by the prominence of *Blood Diamond* as well as continuing pop culture references, most recently Kanye West's Grammy-winning album. In the context of several African war-themed Hollywood films (*Hotel Rwanda*, *Lord of Wars*), the lack of attention to Sierra Leone, a conflict that fueled powerful news reports and images in 2000, was actually striking.

"We have resisted the temptation to jump on the Hollywood bandwagon with dramatic charges and demands. The campaign against conflict diamonds and the creation of the Kimberley Process have been remarkably effective so far. The work is far from over, however. The problem is that without high drama, it is difficult to raise funds" (PAC website, n.d.). PAC, while the quietest of the NGOs during the Hollywood buzz around the *Blood Diamond* movie, did take action. It attempted to counteract "confusion created by these films" (PAC press release, November 30, 2006). In a press release entitled "Blood Diamonds at the Movies: Rush of Films Distorts Reality", PAC echoed the industry in cautioning that consumers could get a false impression from the films (press release, November 30, 2006).

In response to the films, *Blood Diamond* in particular, PAC changed its website where it warned consumers about three inappropriate reactions the film could evoke: boycotting diamonds, avoiding African diamonds, and assuming that the

problems had been solved. The boycott question, which was debated among NGOs in the agenda-setting stage, was completely off the table for all NGOs at this stage of the campaign: everyone agreed that a boycott would have disastrous effects. Ironically, with the release of the movie, not only the industry but NGOs too feared that consumers might boycott diamonds in general or African diamonds in particular. PAC had this to say: "Some manufacturers and jewelers are beginning to sell diamonds from a particular country, advertising their 'pedigree' and the fact that they are conflict-free. One California jeweler sells only Canadian diamonds and donates five percent of the profits to charitable activity in Africa. We are a Canadian NGO and we have nothing against Canadian diamonds, or against doing good work in Africa. But this combination is not a good idea. Some 60% of the world's gem diamonds originate in Africa, and African diamonds will always find their way to market. The answer is not to avoid African diamonds – effectively boycotting them – and then give Africa some charity. The answer is to work to ensure that African diamonds contribute to the development of the countries and communities in which they are mined" (PAC website, n.d.).

While PAC stressed the negative consequences the movie could have, it also acknowledged the opportunities it opened up: "Much as the film may create image problems for Sierra Leone and for the diamond industry, it is a reminder of why there is a Kimberley Process. It is a wakeup call to anyone who thinks the KP systems are good enough, its reactions fast enough, its determination strong enough. It is a reminder that if the Kimberley Process does not hold itself accountable for the objectives it has set, others will" (PAC website, *Hollywood*, n.d.).

Amnesty International and Global Witness Team Up

While PAC was cautious about the *Blood Diamond* buzz, Global Witness and Amnesty International quickly saw it as a chance to reinvigorate the public campaign. The NGOs teamed up with the movie makers in creating the website and some of the materials posted there. The site, launched on November 29, splits its front page between the movie link and a take-action website. The take-action site provides links to Global Witness, Amnesty International, and PAC websites.

While Amnesty was only marginally involved during decision-making and implementation, it became more central in renewed public awareness-raising. Amnesty/Global Witness collaboration resulted in a highly effective team, Global Witness as one of the lead conflict diamond NGOs and Amnesty with its unmatched reputation, recognition, and experience.

A "Blood Diamond/Clean Diamond" bracelet, created by AI in conjunction with the movie, was worn by the cast at events promoting the movie. The website also featured a 55-page curriculum guide, incorporating case studies of coca conflict (Colombia), oil conflict (Nigeria), and timber conflict (Cambodia), as well as a section on corporate social responsibility. It also included a letter writing/email campaign, this one targeting the US Congress and the WDC rather than the KP chairman (the target of PAC's letter-writing campaign). In addition, a

“Diamond Buyer’s Guide” (previously published by Global Witness and Amnesty International) instructs consumers about what to ask when buying a diamond.

Reactions to Blood Diamond

Blood Diamond was nominated for four Academy Awards, including best actor and best supporting actor. DiCaprio and Hounsou were also nominated for Screen Actors Guild Awards for their performances.⁹ While the *LA Times* remarked, “Despite fear of a celebrity diamond boycott, the season’s movie premieres and public appearances include the usual ransom of diamonds”, fewer diamonds than usual were worn on Oscars night. One fashion commentator noted, “Actress Naomi Watts stood out as one of the few stars to don a necklace at the ceremony” (National Jewelers Network website, n.d.). Not only were many stars more cautious in their jewelry choices, but several artists wore red teardrop-shaped pins to the Oscars to raise awareness about conflict diamonds and child soldiers, organized by Amnesty International” (Amnesty press release, February 23, 2007). This pin, worn by DiCaprio and Hounsou, was not the only awareness-raising action directly related to the movie makers or the cast. In US theaters, a public service announcement from the UN World Food Program, featuring Hounsou and Connelly, preceded *Blood Diamond* screenings. The statement included the following message: “What is so powerful that it can make you overcome your greatest fear ... turn your brother into an enemy ... and leave wounds that scar long after the fighting is over? What is so potent, it passes effortlessly from mother to child ... from generation to generation? ... Hunger – so deadly it kills 25,000 people a day ... Help us fight hunger” (World Food Program website,¹⁰ n.d.). Translated into 11 languages, the public service announcement attempted to broaden awareness beyond conflict diamonds, similar to NGO and industry efforts branching out to development issues. It associated diamonds directly with problems of development and poverty rather than with civil wars. Increasingly, it became the norm to problematize diamonds not only with regard to conflict but also in terms of challenges to the industry regarding its economic impact in poor countries.

9 *Blood Diamond* award nominations: Academy Awards nominations: best actor in a leading role (DiCaprio); best actor in a supporting role (Hounsou); best sound mixing, best film editing; Black Reel Awards (Hounsou); Critics Choice Awards (best picture, best actor, best supporting actor); Golden Globe Awards (DiCaprio); NAACP Image Awards (outstanding motion picture, Djimon Hounsou); National Board of Review Awards (top ten films of the year, Hounsou [won]); Satellite Awards (DiCaprio); Screen Actors Guild Awards (DiCaprio, Hounsou).

10 The clip can be viewed at <http://www.youtube.com/watch?v=RwUc-fH9Is8>.

NGOs Watchdog Role: More Important than Ever

In the absence of serious media attention since the blockbuster movie, conflict diamonds appeared to slip away from the radar screen and with less and less attention paid, states grew sluggish in their efforts to effectively certify rough diamonds. The absence of a credible consumer threat since *Blood Diamond* is just one of the reasons why effective implementation of the KPCS has increasingly become challenging. Most importantly, the KP's consensus principle and the lack of a central secretariat have hampered effective progress in regulating the global trade in rough diamonds. NGOs however continue their efforts in combating conflict diamonds and in ensuring the effectiveness of the KP through their roles as watchdogs. Let me elaborate on those issues in tracing some key events of the past three years of the KP.

NGOs watchdog role has been critical from the onset of the campaign. Most recently, NGOs have been important in speaking out about the problems in the KP. Specifically, NGO reports have detailed KPCS violations in several of its member countries including Brazil, Côte d'Ivoire and Ghana, Lebanon, Guyana, Venezuela, and most recently, Zimbabwe. Consider the problems with two of those cases, Venezuela and Zimbabwe.

The saga of Venezuela's illegitimate diamond production has been unfolding for the last three years. PAC reported on Venezuela's inability to control their diamond trade and the massive smuggling of Venezuelan diamonds in "The Lost World: Diamond Mining and Smuggling in Venezuela" (November 2006). A KP review team was eventually sent to Venezuela in October 2008, supporting what PAC had documented two years earlier that Venezuela is non-compliant with the KPCS. Instead of suspending or expelling Venezuela, an apparent "solution" was put in place with Venezuela's self imposed export ban, allowing the country to remain a KP participant. Since then, however, Venezuelan diamonds have continued to be mined and smuggled out of the country to its KP neighbors, Brazil and Guyana, as an independent PAC investigative visit in May 2009 confirmed. Still, the KP has taken no actions, which has led the NGOs to conclude the following: "In overdoning the status quo, the Kimberley Process has become an active party in an overt diamond smuggling enterprise" (PAC, June 2009: 2).

In 2009, KP inaction regarding another participant – Zimbabwe – led to increasing criticism. Not only NGOs, but key figures in the industry, and representatives of many KP member states, notably Israel and Canada, have been seeking KP action against Zimbabwe. Mounting pressures for suspending Zimbabwe from the KP thus far have not been successful. The KP sent a review mission to Zimbabwe nearly half a year after NGO reports detailed that around 200 miners were murdered by the Mugabe military in the Marange mining area in October 2008. PAC's report "Zimbabwe Diamonds and the Wrong Side of History" (March 2009) and a report by HRW, "Diamonds in the Rough" (June 2009) also document massive violence and human rights abuses in other mining areas. Both reports make a strong case for suspending Zimbabwe from the KP.

Not only civil society groups have been outspoken on the matter. In April 2009, the president one of the most important diamond industry trade groups, the World Federation of Diamond Bourses, announced a ban on diamonds from the Marange mines (World Federation of Diamond Bourses 2009). Moreover, the report of the KP review mission team sent to Zimbabwe for a non-voluntary review mission in June/July 2009 also recommends suspension in its preliminary report to the KP. Thus far however, no such action has been taken in light of several countries' reluctance, namely South Africa, Namibia, Russia, Tanzania, and the DRC, to act in suspending Zimbabwe. Instead, at the November 2009 KP plenary meeting in Namibia, participants settled on a plan proposed by Zimbabwe. It demands a phased military withdrawal without specified timetable and the appointment of a monitor to certify the diamond shipments out of the Marange mines. Steps which according to the NGOs, do not go far enough to address Zimbabwe's non-compliance problems and are inadequate in preventing further human rights abuses in the area.

The failure of KP action regarding Zimbabwe and Venezuela has sparked growing pressures by NGOs for reforming the decision-making process in the KP. Effective implementation has been hampered by the absence of a central authority and the consensus principle, which requires unanimous voting in the KP. Consensus was an important mechanism in creating the KP with maximum input from all stakeholders. But the same system has created gridlock in the implementation of the KPCS. Unanimous decision-making needs to be replaced by a voting system to ensure political action when a members' non-compliance threatens the credibility of the entire process.

In addition, NGOs have begun to target the KP's monitoring mechanism too. Ian Smillie recently summarized the concerns regarding voluntary peer reviews in a speech to the diamond industry: "The KPCS peer review mechanism, which I helped to design, is a disaster. Some reviews are thorough and recommendations are heeded. In many cases, however, recommendations are ignored, and there is little or no follow-up. Some reviews are completely bogus. In 2008, a bloated, nine-member team visited Guinea, a country whose diamond industry is beset by corruption, weak diamond controls, rotten statistics and almost certain smuggling. Over the past two years, official Guinean diamond exports have increased by a staggering 600%. The Kimberley team spent less than two hours outside the capital city and its report remained unfinished for almost 11 months. This is a parody of effective monitoring, and sadly, it is not the exception" (Smillie 2009: n.p.). Weaknesses in the peer monitoring mechanism have become increasingly evident in the past three years. Frequently, speed and the lack of follow-up mechanisms are key problems. But incompetence and vested interests on the part of review team members has also been established on numerous occasions.

NGOs have also exerted pressure on the KP to revisit its definition of conflict diamonds. They argue that the narrow understanding of conflict diamonds as diamonds traded by rebel groups fails to account for broader violence and human rights abuses fueled by diamonds. Such a definition does not acknowledge abuse or

even murder perpetrated or condoned by governments in their quests for diamond profits. Points in case are recent developments in Zimbabwe discussed above (PAC, March 2009; HRW June 2009). Zimbabwe is in violation of the KPCS due to its problems in establishing chains of custody of its diamonds. However, the abuses in the mining areas by the Zimbabwean military do not make those diamonds conflict diamonds, despite little doubt that those gems are bloody. Similarly, a violent military regime in Guinea or Angola's human rights abuses against illegal Congolese miners there add to the list of serious concerns that NGOs raise. None of those can currently be addressed directly under the KP's narrowly defined responsibility regarding human rights and conflict diamonds (PAC October 2009). A recent HRW report concludes: "The KPCS risks becoming irrelevant and ineffective if it sticks to a narrow interpretation of its core mandate and limits its human rights focus. In light of the research in this report and by others, the KPCS clearly needs to revisit its mandate and expand it to specifically cover broader human rights concerns and unambiguously include them as part of the certification process. Diamonds originating from situations like Marange, where serious human rights abuses have taken place, should be shunned like 'conflict diamonds' acquired by rebel groups. The term itself should be amended to reflect a broader array of abuses connected to mining" (HRW 2009: n.p).

NGO criticism on the KP and on non-compliant KP participants shows that NGOs are acting as important watchdogs. Both PAC and Global Witness have continued to publish reports on particular KP member states and their violations when they believed that KP internal responses were insufficient. In the cases of Brazil, Venezuela, Guyana, Zimbabwe, Guinea, Côte d'Ivoire, and the Central African Republic extensive NGO research uncovered problems of the global diamond trade. PACs, Global Witness, and HRW reports have consistently been of high accuracy, which has only bolstered NGOs legitimacy as important guardians of the clean diamond trade. NGO reporting on KP rule violations in a number of countries led to subsequent KP actions, which would have been unlikely without these reports. In their roles as watchdogs, NGOs continue to provide important information as unpartisan bystanders.

Interpreting Revitalization

Revitalization was marked by an expansion of concerns to poverty diamonds, a renewed public awareness campaign on conflict diamonds, and growing frustrations with ineffective control mechanisms of the KP. The DDII sought to put development diamonds and artisanal miners on the agenda of major development agencies. The attempts to frame diamonds in development terms can also be understood largely in terms of renewed agenda setting. The renewed public awareness campaign surrounding the movie *Blood Diamond* also harks back to the first campaign stage.

Thus, on the one hand the conflict diamond campaign experienced its own revitalization by redefining frames, renewing campaign activities, and keeping up involvement in KP implementation. On the other hand, revitalization also refers to the impact of the conflict diamond campaign and the KP on the formation and direction of other campaigns, including development diamonds, resource extraction, and beyond.

Development Diamonds

Linking conflict diamonds and development diamonds has been quite successful, but important challenges for the Diamond Development Initiative remain. One challenge is that development diamonds do not easily lend themselves to a splashy consumer campaign with the powerful images that conflict diamonds provided. Also, the link to artisanal miners worldwide, involving many minerals besides diamonds, is likely to involve many more stakeholders and a range of challenges. Cooptation is still a concern for some NGOs seeking to maintain their distance from the industry. However, PAC's and Global Witness's reputation as tough watchdogs in the KP has mitigated some of these fears. That these NGOs were not easily coopted but kept publishing highly critical reports also suggests that states and the industry did not seek NGO involvement in the DDII with the hope of coopting them. They knew that the NGOs could not be bought.

While the DDII developed directly out of the tripartite relationships built within the KP, the development diamonds frame at large and the numerous local initiatives related to it primarily reflect bottom-up pressures by local African NGOs. They succeeded in making artisanal diamond mining, poverty, and working conditions important issues.

I showed that responses to the development-diamonds frame were tripartite in nature, for two reasons. First, the development/aid sector frequently relies on multi-stakeholder participation, especially local NGOs, to implement projects. This was indeed the case with early artisanal diamond mining initiatives. Second, the tripartite model diffused from the KP through personal experiences and interaction among state, industry, and NGO leaders as well as through the increasing attention that was paid to the KP as a "successful" new model for addressing global social problems. The development of the DDII illustrates both of these processes. The same proactive partners that worked together on the KP undertook this initiative; NGOs had established direct links and relationships with state and industry officials in the KP and these relationships could be used for issues other than KP concerns. In the industry, once again the companies most immersed in global cultural norms about corporate ethics and social responsibility stepped forward. De Beers and Rapaport believed that further efforts were needed to show that they were indeed committed to alleviating human suffering, becoming a responsible and positive force as ethical business leaders.

Blood Diamond

Blood Diamond put the industry once more in fear of a drop in demand for diamonds. The movie may well have engaged more consumers and a broader public than was achieved in the consumer awareness campaign during the agenda-setting stage. Therefore, for some in the industry, this time it was perhaps an even more realistic threat, especially knowing what they did of the consequences of the earlier campaign (lengthy negotiations, a drastic restructuring of the international diamond trade, and increased state regulation). While some in the industry feared long-term negative effects, many were simply concerned about falling sales in the Christmas season in the US – remember that the film launch date was December 8 – and sluggish Valentine's Day sales in the US and Europe. The movie was to be released in Europe in late January and the Oscars build-up would begin soon thereafter.

These financial pressures translated into greater commitment and actions at the 2006 plenary in Botswana. It is doubtful that so many NGO concerns would have been addressed at that meeting were it not for the upcoming movie release, which brought a highly committed industry to the table, and worries among states that the KP could lose credibility and legitimacy, which were its sole sources of authority in the international system. Similarly, the drop in media attention since the blockbuster movie, has defined an increasingly troubled KP, unable to generate sufficient political will necessary for the effective implementation of the KPCS.

Continued Implementation and Compliance Activities

Evidence from the revitalization stage further reinforces several ideas brought up in earlier chapters. I discussed expulsion from the KP as an important political tool in the implementation stage. Yet expulsion of a KP member has not occurred since July 2004, when the Republic of Congo was expelled. Suspension instead has become the KPs official punishment mechanism and during revitalization it has become a less credible threat. This is due to the KP's failure to make use of this political tool even when evidence of non-compliance is well established, as was the case in Venezuela and Zimbabwe. Instead, in some cases non-compliance was tolerated while in other instances compliance was ensured through a variety of means, some internal to the KP and others external. NGOs played a crucial role in uncovering instances of non-compliance through detailed investigations in various countries, as well as their KP participation (see "Killing Kimberley", Global Witness's investigation of Armenia, and PAC's reports on Brazil, Venezuela, and Zimbabwe). PAC's investigation of Brazil, the subsequent domestic and KP responses, and the public apology to PAC offered by the Brazilian KP delegate were especially telling. The UN also aided in monitoring KP compliance, at least when diamond smuggling was related to infringements of peace accords or sanctions (as in Côte d'Ivoire, Ghana, and Mali). Compliance problems with

Venezuela and Zimbabwe continue to exist and external pressure from the NGOs is therefore likely to continue.

While the KP had become *the* place to respond to problems regarding conflict diamonds, it was not the only place to establish where and when problems occurred. In most instances, the KP did not discover non-compliance and was sluggish in responding to NGO and UN evidence of non-compliance. However, once violations were put on the table, measures eventually were taken. Usually these were self-imposed voluntary temporary export bans or UN sanctions, along with KP review missions and visits. Similarly, at least with regard to conflict-related KP trade violations (hence, not in Venezuela or Brazil), the UN is likely to continue to play an important role as an imposer of sanctions, suggesting that material leverage is more readily exercised by the UN, even though the KP does have the authority to expel non-compliant members.

Despite NGOs' continued and relentless criticism, their influence did not wane. The KP self-review illustrated that the tripartite structure and NGOs' expanded role were well established and remained unquestioned. Furthermore, it appears that the NGOs' insider status did not hinder their preparation of highly critical assessments of the KP system, of specific states, or of the industry. Consider Global Witness, for instance. At the same time that it engaged the industry in the DDII, it also launched a highly public awareness campaign with Amnesty International. The NGOs were thereby able to deflect some of the criticism leveled at them for launching the DDII, which was seen as putting them in bed with the industry. PAC and Global Witness had built reputations over the years in the KP by showing that they were not easily coopted and they stood by their goals and commitments – to end the trade in conflict diamonds, to stop brutal wars, and now, to alleviate the poverty of alluvial diamond miners and their families. Had it not been for their continuously critical and independent role in the KP, PAC and Global Witness likely would have lost important support (financial and otherwise) from others in the NGO community for joining with De Beers in the DDII.

Whether or not NGOs are able to engage key stakeholder, as they so successfully did during the early campaign stages in 1999 and 2000, is not yet clear. NGOs have a much more complicated story to tell: rather than rebels selling blood diamonds, the problem now is governments' non-compliance with abstract and technical KP standards. Technocratic details about the KP and violations to the KPCS are hardly considered newsworthy and difficult to induce widespread collective action. Still, NGOs' campaigns against human rights abuses in Zimbabwe and, most recently, Guinea will likely raise the stakes once more for the industry as well as for concerned governments.

Chapter 7

Conclusions: Beyond Blood Diamonds

The conflict diamond problem emerged as a salient global issue engaging numerous actors in efforts to reduce the role of diamonds in calamitous civil wars in Africa. Through the Kimberley Process, it has assumed a prominent place on the global agenda for some time to come. The KP has been instrumental in the reduction of the trade in conflict diamonds. In the 1990s, conflict diamonds made up about 15 percent of the total global diamond trade. Today this number is under 1 percent. As such, the KP is a remarkable success story. No other natural resource has seen its contribution to conflicts seen decline as much and few industries have experienced regulations transform business practices so drastically. Contributing to an end of diamond funded civil wars in Sierra Leone and Angola marked the KP's initial success. Since then, the KP can also be credited for having facilitated tremendous increases in legitimate diamond production. This meant significant boosts in tax revenues in countries like Liberia and Sierra Leone. More generally, the KP serves as model for tripartite collaborations between states, industry, and civil society on a variety of global social problems. At the same time, the KP is now facing serious criticisms on its inability and unwillingness to respond to KPCS violations and to step up its monitoring efforts.

In this final chapter, I revisit key insights from this case study that shed light on important features of global governance. Firstly, I lay out what likely awaits the KP in the near future, illustrating the fluid and dynamic process of solution building and that success of this regulative mechanism is uncertain and cannot be taken for granted. Global decision-making cannot be captured in a finite event, like the ratification of a treaty or the passing of a voluntary agreement like the KPCS. Norm creation and implementation is a process, which continuously redefines meanings and purposes, challenges, and actors' relationships. The most recent debates unfolding in the KP illustrate this dynamic nature of global advocacy and decision-making. Secondly, I draw conclusions from the case study that are significant in understanding the workings of international campaigns, the roles of nongovernmental organizations, and the growth of tripartite governance structures.

The Kimberley Process: Moving Forward

The KP is as relevant as ever. The regulation of conflict diamonds is crucial given the fragile nature of many of the peace agreements in formerly conflict diamond affected areas. Evidence for this are staggering costs of massive UN peacekeeping

missions in Liberia, Côte d'Ivoire, and the DRC totaling \$2.3 billion in 2009–10 alone (PAC, October 2009). NGOs' put it bluntly: "The cost of a Kimberley Process collapse would be disastrous for an industry that benefits so many countries, and for the millions of people in poor countries who depend, directly and indirectly on it. A criminalized diamond economy would undoubtedly re-emerge and conflict diamond could soon follow ... The KPCS is too important to fail, and it is too important to too many counties, companies and people for make-believe" (PAC, October 2009: 4).

Critics point to several examples where the KP failed to deliver on its tamper-proof promise. Weak internal controls, coupled with ineffective KP action, have allowed for diamond smuggling of UN sanctioned Ivorian diamonds via Guinea, unchecked diamond smuggling in the border area between Zimbabwe and Mozambique, and for diamonds from Venezuela, who officially has halted production, to be smuggled into the KP certified diamond pipeline via Brazil and Guyana. Similarly problematic is the case of Lebanon, which despite no diamond deposits, reports more exports than imports of gem-quality diamonds. Most importantly, lack of effective implementation of the KPCS on those matters can be attributed to waning political will of governments and the industry to effectively implement the KPCS in the absence of a credible threat of a consumer boycott. But more fundamentally, and also more important for any attempted remedies, is that implementation problems are rooted in shortcomings of the KPs bureaucratic and organizational make-up.

Weariness that the global collective memory about the disastrous impacts of conflict diamonds more than a decade ago is fading, fuels NGOs in their ongoing attempts to strengthen the KP. To ensure that conflict diamonds do not resume their bloody role and help spur conflicts of tomorrow, NGOs together with committed state and industry allies, seek several key reforms to the KP. Ineffective responses to non-compliance and problems in monitoring are caused by two key weaknesses of the KP: unanimous decision-making and the absence of a central and permanent secretariat. By no means insurmountable, the following measures are currently being debated to overcome the shortcomings and to substantially strengthen the KP for the future.

Firstly, moving KP decision-making from a vetoing to a voting system would help to avoid gridlock in the KP. Strict consensus, in the form of unanimous agreement, was an important political tool in early decision-making and facilitated the rapid adoption of the KPCS in 2003. But consensus has become a major obstacle to effective implementation: "it has now become totally dysfunctional. One or two participants, sometimes with vested political or commercial interests, can hold up forward movement on anything and everything" (PAC, October 2009: 2).

Secondly, NGOs call for the establishment of a central bureaucracy in form of a permanent secretariat with an annual budget. Such a secretariat must not be large, but sufficiently equipped to be able to better coordinate activities of the various working groups, as well as be able to smoothen the transitions between annually rotating chairmanships. The establishment of a KP secretariat would also facilitate

more effective and timely monitoring, assist in research and data analysis, help address issues of unequal burden sharing, and facilitate the process of informing the public by publishing summary trade statistics and KP review reports in efforts to achieve greater transparency.

Thirdly, critics also point to the need for KP participants and industry observers to commit to a more effective and independent monitoring process and be willing to follow-up uncovered non-compliance with credible punishments. The current peer review mechanism is not working properly. This is largely due to the absence of serious follow-up mechanisms after review visits have been completed and partly due to sluggish and incompetent reviews. A recent PAC assessment concluded: "The KP needs an independent arms-length monitoring and research arrangement that sets a high standard of evaluation, avoids conflicts of commercial and political interest, and ensures timely follow-up. This will require a funding mechanism to ensure that money is not a limiting factor in participation" (PAC, October 2009: 2). Moreover, the same report advises the KP to implement credible sanctions against non-compliant countries to remedy significant loopholes in KPCS implementation: "a six-month suspension would serve as a powerful wakeup call, but only if the possibility is real" (2).

These debates that are currently unfolding in and surrounding the KP illustrate the open-ended nature of global decision-making and norm building. NGOs continue to advance the norms on conflict free diamond trading. They do so in dense advocacy networks which have continuously developed since the initial agenda setting efforts. The translation of norms into concrete action has become defined by the institutional setting of the KP. As the established setting for activism, the KP too has become a target. In fact, NGOs have threatened to leave the KP if their demands of serious institutional reforms are not met. Global decision-making, as illustrated by the KP, is a dynamic process and cannot be captured as a discrete event. Scholars need to take note and adjust their analyses of global campaigns to fit the evolving nature of advocacy and governance.

Tripartism, Global Campaigns, and Roles of NGOs

Without campaign efforts and the creation of the KP, the dramatic reduction of conflict diamonds could not have been achieved. Through this and other prominent global campaigns, NGOs continue to shape the larger environment in which consumers, businesses, and states interpret claims about injustice and moral responsibility in world society. NGO leadership brought the issue of conflict diamonds to the attention of states and the industry, and NGOs continued to play a leading role throughout the subsequent solution-building and implementation stages. The two NGOs that most directly brought conflict diamonds onto the global agenda and led the way to the certification of legitimate diamonds were Partnership Africa Canada and Global Witness.

Material and Normative Motivations

Understanding the important role NGOs can play in agenda setting and participating in solution building requires us to look at both non-material and material forces. Normative and material incentives shape the behavior and expectations of actors, intersecting in the complex webs of global society. Increasingly the global cultural environment has empowered NGOs *vis-à-vis* firms and states by legitimating their participation in joint solution building across a range of issues, but their effectiveness depends at least in part on their ability to translate cultural principles into potentially substantial material costs that firms and states are not willing to bear. Three developments in particular indicate material pressures at work. First, although the KP is a voluntary agreement, joining the system is essentially compulsory for states seeking to trade in rough diamonds. Second, the continuing threat of a boycott kept pressure on states and the industry to commit to the process in all four stages of the campaign. Third, material pressures were especially important to rally enough support within the diamond industry to create the World Diamond Council (WDC) and give it the authority to represent the entire diamond industry.

Increasingly, the reputation and legitimacy of international organizations and agreements hinge on their inclusiveness and openness toward civil society groups. NGO legitimation of the KP was of particular importance for several reasons. First, the industry and states had suffered severe criticism for failing to address the problem of conflict diamonds; they realized that NGO involvement was crucial if KP decision-making was to be accepted as legitimate solution-building rather than self-interested window dressing. In addition, the KP had no legal authority or standing, especially prior to the UN's endorsement. Last, the KP was not based on universal state representation and ran the risk of being identified as an exclusive, self-interested club. These legitimacy deficits were mitigated by the tripartite structure, particularly by NGO participation, and the KP quickly emerged as the primary and undisputed forum for negotiations.

These norms also facilitate participatory decision-making in which NGOs give input regarding how problems should be framed and addressed. As is evident in the conflict diamonds case, NGOs can exert considerable influence throughout these later campaign stages. NGOs participated fully in the KP peer review system. Their hands-on involvement in this and other aspects of implementation put pressure on states to implement the KPCS properly; partial or ineffective implementation was sure to be exposed quickly.

NGOs played a key role in all aspects of decision-making, which unfolded in a surprisingly democratic fashion such that state and non-state actors exercised similar levels of influence. Tripartite negotiations were not just a smokescreen. Indeed, heated debates and disagreements unfolded among the various actors, and the tripartite model extended to hallway discussions and cocktail parties outside the formal meeting rooms. Such developments show that norms about the value and importance of non-state actors had been internalized. In fact, the lack of formal

organization and institutionalized procedures in the KP, continued state concerns about sovereignty, and states' frequent hesitation to commit funds, gave NGOs even greater influence as policy makers and implementers. In the conflict diamond campaign, NGOs monitored the KP as both insiders and outsiders. One clear lesson from the KP as well as several other agreements in which NGOs play a lead role in implementation (e.g., the Forest Stewardship Council) is that NGOs ought not to restrict themselves to the external watchdog role. They can seize opportunities to shape and strengthen the implementation of agreements from within.

The professional and hands-on role NGOs have played at every stage in the process (agenda setting, decision-making, implementation, and revitalization) will further expand the legitimacy and acceptance of NGOs. No longer primarily associated with agenda setting, global civil society representatives increasingly have expanded input in every stage.

Corporate Social Responsibility

As I have shown in Chapter 2, CSR principles provide a meaningful explanation for what motivated industry to get involved in the Kimberley Process. CSR principles provided a cultural-political opportunity structure for the conflict diamond issue. On the one hand, I argued that global consumer awareness campaigns and movements targeting TNCs or industries are enhanced by previous campaigns, which redraw the responsibilities of today's consumers and corporations. On the other hand, it is the broader normative framework of CSR that provides opportunities for global campaigns to target industries and firms. While facilitated by these broader opportunities, the conflict diamond campaign, the KP, and the DDII in turn reinforced the spread of CSR norms and practices worldwide.

Specifically, CSR practices provide a further opportunity for global campaigns: partnerships with NGOs are a major way to achieve a better image with regard to social responsibility. Through NGO links, TNCs can show their commitment to universal rights and the rule of law, perhaps restoring reputations damaged by past violations. NGOs in turn hold TNCs responsible for those commitments, while at the same time questioning the sincerity of companies' motivations. This framework helps explain the striking growth of multi-stakeholder initiatives discussed above.

The KP and other campaigns suggest that NGOs can and should engage with TNCs. The stigma connected with getting too close to industry appears to be waning, especially as evidence mounts of effective collaboration on the part of solid and steadfast NGOs like Greenpeace or Oxfam, who have successfully entered collaborations with companies without being co-opted (Greenpeace with Coca Cola on water conservancy, Oxfam with Unilever on a study of the company's social and environmental impacts in Indonesia). Moreover, the Kimberley Process, along with efforts like the Forest Stewardship Council (FSC) and the Extractive Industries Transparency Initiative (EITI), have shown that engaging industry does not automatically translate into weak voluntary industry codes at the expense of

more effective state regulative frameworks; actually, the two can go hand in hand. NGOs therefore can pursue multiple goals; while strengthening and watchdogging voluntary initiatives, they can also continue their pursuits to pass international legal frameworks.

Tripartism

In coming years we can expect to see a growing number of institutional arrangements in which industry, states, and NGOs tackle new social problems as collaborative groups of experts. These institutions will be guided by new organizational norms that further heighten the influence of NGOs *vis-à-vis* power actors. Tripartite institutions will be based on principles of equality and transparency. NGO presence and participation will provide opportunities to ensure that goals are met and social problems are more effectively solved. The creation of such tripartite structures guided by participatory principles will further enhance the influence of NGOs. Once engaged in tripartite arrangements, it becomes even more difficult for states to argue that certain violations are not occurring, not important, or outside their realm of responsibility. In the KP for instance, as states chaired working groups, incurred administrative costs, and committed staff to certify their diamonds as conflict free, many became increasingly committed to the wider goals of the KP, seeking to make it a tamper-proof, successful template of voluntary international regulation.

Such hands-on, long term commitments by NGOs to international agreements, voluntary codes, and tripartite organization brings to the fore certain challenges for civil society. For NGOs that are engaged in organizational structures like the KP, the demands on their expertise and capacities will continue to grow. To accommodate these challenges NGOs may increasingly resemble think-tanks, producing and disseminating data and reports, perhaps hiring independent consultants. In doing so, though, they must retain their character as disinterested, morally-driven entities if they are to maintain their legitimacy as principal actors in global affairs (Meyer et al. 1997).

NGOs' direct and deep engagement strains their resources, especially for issues that require steady, long-term commitment. Resource constraints will inevitably pose a challenge to NGO involvement in global policy creation and implementation. Most likely, the constraints will be eased by increased funding of NGOs by states and by collaborative relationships with industry. State funding for certain NGO sectors is on the rise, particularly for aid and development where local NGOs have for some time been considered important and useful partners in service provision to communities in need (Brinkerhoff 2002; Smillie 1995; World Development Report 2000/2001). As NGO involvement in implementation procedures of other sectors increases, so too will state funding of NGOs in these sectors. Some NGOs will continue to reject state funding to avoid the loss of legitimacy that perceptions of cooptation can entail; Amnesty International, for example, is not likely to abandon its strict policy of complete independence from

states. However, grassroots fundraising to pay for NGO participation in costly bureaucratic processes is challenging, and few NGOs command the resources of prominent groups like Amnesty. States are likely to increase their support for NGOs in tripartite processes while more NGOs agonize over the dangers of cooptation. This arena deserves careful on-going study in coming years.

Cooptation's threat to NGO legitimacy applies equally well to industry-NGO partnerships. NGOs cannot accept money directly from corporations without risking their legitimacy. Therefore, NGOs are reluctant to join tripartite arrangements that are disproportionately funded by business. The Kimberley Process and the Diamond Development Initiative International (DDII) illustrate such challenges well. As both Global Witness and PAC have argued, the KP as a tripartite institution requires that states carry their share of the financial burden; civil society cannot bear the entire load, and industry cannot be the principal funding source or the process will lose legitimacy. By the same token, the DDII cannot be funded primarily by De Beers. One way out of this dilemma, which is likely to become more common, is for certain states to act as moral leaders. For instance, Sweden recently committed €307,000 to the Diamond Development Initiative, and Canada and the European Union (represented through the EC) continue to carry disproportionate burdens in the KP, including supporting NGOs. As self-designated moral leaders, these states, while lacking leverage in institutions such as the UN Security Council, will over time find themselves disproportionately funding civil society engagement in multi-state negotiations.

Thus, while tripartite arrangements probably will provide growing opportunities in future campaigns, the challenge for NGOs will be to retain legitimacy in the face of growing expectations to participate fully in ever more costly, long-term bureaucratic solution building. My study has shown that PAC and Global Witness have retained and even boosted their moral standing as NGOs by effectively navigating these choppy waters. In 2007, Global Witness won the prestigious "Commitment to Development *Ideas in Action*" award (jointly given by the Center for Global Development and the journal *Foreign Policy*). The trial of Charles Taylor at the International Criminal Court further bolstered the standing of Partnership Africa Canada and its principal figure, Ian Smillie, who testified as the lead witness for the prosecution based on his expertise regarding conflict diamonds. Smillie's appearance as a witness made it clear that PAC continues to be committed to helping Sierra Leoneans and Liberians by fighting against the trade in conflict diamonds.

Shaping Other Global Campaigns

Just as the fair trade movement, fur and other consumer campaigns have set important precedents, so too will the conflict diamonds campaign and KP shape the context of future campaigns. Most significantly, initiatives like the DDII, the Peace Diamond Alliance, the Community and Small Scale Mining Initiative, the Campaign for Just Mining, and industry fair trade programs like Rapaport's Fair

Trade Diamond & Jewelry Initiative or the Council for Responsible Jewellery Practices have started to address the root causes of conflict diamonds and as such will become important partners to the KP in preventing future diamond funded wars and conflicts. Campaigns regarding other natural resources were influenced by the conflict diamond campaign. Most notable was the “blood on my cell phone?” campaign, on the role of coltan in fueling war in Congo; also notable was the “no dirty gold” campaign. Due to the encompassing nature of the conflict diamonds campaign, its impact on an entire industry, and the long-term significance of the establishment of an international body governing a multibillion dollar trade in times of trade liberalization, the implications and lessons learned will not be limited to consumer campaigns.

While movements are likely to follow very different trajectories, one key lesson emerges from the campaign against conflict diamonds: interactions among states, industry, and NGOs are dynamic and require all actors to adapt their strategies along the way. Zero-sum politics most accurately defines the agenda setting stage, in which a victory for the NGOs usually means an embarrassing loss for the industry or states. However, on-going interaction leads to an institutional politics of compromise during decision-making and implementation. This requires all actors to shift gears and become willing collaborators. These stages pose challenges for NGOs; some NGOs are better equipped to engage in agenda setting and public awareness campaigns while other NGOs are well-seasoned negotiators. NGOs need flexibility to adapt to new situations, and dense networks of NGOs become increasingly important as a division of labor is required to keep the pressure on both from within and outside the institutional process. Similarly, NGOs are required to continuously reassess the value and legitimacy of their participation in tripartite institutional arrangements and, if necessary, use one of their critical political powers: the withdrawal of support.

Overall, a growth in tripartite solution building is to be expected because of the moral stature and practical competence that civil society participation adds to the effectiveness and legitimacy of international agreements and voluntary industry codes. The conflict diamonds campaign itself boosts the credibility and popularity of tripartite approaches to global solution building. As tripartism increases, it will bring with it continued growth and restructuring of the NGO sector as well. In these changing times, when NGOs, businesses, and states find themselves in unknown territory, they likely will look for guidance to past events of global importance, such as the conflict diamonds campaign and the Kimberley Process.

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